

Q: In a situation where two households are merging, each with an existing live-in-aide, must each live-in-aide receive their own bedroom for the purpose of determining the family's voucher size?

Public Housing Agencies (PHAs) have discretion to determine how their subsidy standards apply in this circumstance. PHAs are encouraged to review and approve reasonable accommodation requests and the relative housing need(s) of their tenants according to the regulations which implement, and the spirit of, the Fair Housing Amendments Act, Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act. Cross References: subsidy standards; live-in aide References: 24 CFR 8.33; 24 CFR 100.204; 24 CFR 982.402(b)(6)-(8); 28 CFR 35.130(b)(7)

<https://www.hudexchange.info/faqs/4195/in-a-situation-where-two-households-are-merging-each-with-an-existing/>

TAGS: HCV FAQs : Payment Standards : Changes in Payment Standard Amounts / /

Q: Is there a consolidated list of what actions require Board of Commissioner approval prior to implementation?

No. If a Public Housing Agency (PHA) proposes to significantly amend or modify a policy, rule, regulation, or other aspect of the PHA Five-Year or Annual Plan (which includes the Administrative Plan), the PHA must hold a board of directors/commissioners meeting that is open to the public prior to adopting. However, the PHA must define what is considered a "significant amendment", so the standard will vary across agencies. Cross References: Board approval, directors, amendment, resident board References: 24 CFR 903.13(c); 24 CFR 903.17(a)

<https://www.hudexchange.info/faqs/4194/is-there-a-consolidated-list-of-what-actions-require-board-of-commissioner/>

TAGS: HCV : Uncategorized : General Administration PH : General Administration : Other / /

Q: Are Public and Indian Housing (PIH) notices still valid when they are old, or expired?

Unless there is more recent guidance that alters or contradicts it, HUD would consider the expired notice as the best available guidance on the topic in question. Cross References: expired, PIH, old notice

<https://www.hudexchange.info/faqs/4193/are-public-and-indian-housing-notices-still-valid-when-they->

are-old/

TAGS: HCV : Uncategorized : General Administration PH : General Administration : Other / /

Q: How can a Public Housing Agency (PHA) avoid a duplicate tenant error if a child has the same name and birthdate as another child at a different PHA?

A duplicate tenant error would not be flagged in this scenario. For the error to be flagged, there would need to be a social security number or alternate ID number match. When this occurs, the PHA must follow up with the family and determine whether the child is still a member of the assisted household. References: 50058, multiple subsidy, duplicate tenant References: HUD User Manual (Form 50058, Tenant ID Management Section 1.1.4.)

<https://www.hudexchange.info/faqs/4192/how-can-a-public-housing-agency-avoid-a-duplicate-tenant-error/>

TAGS: HCV : Uncategorized : PIH Information Center (PIC) PH : General Administration : Other / /

Q: If two assisted families have joint custody of the same child, how can the Public Housing Agency (PHA) avoid a duplicate tenant error in Public Housing Information Center (PIC)?

Only one assisted household may claim the dependent. PIC will not accept a submitted record if a household member's name already appears in another household. To avoid this error, the PHA should adopt a policy that determines which household may claim the dependent. Cross References: shared custody, duplicate tenant, multiple subsidy References: Form HUD 50058 Technical Reference Guide (Chapter 5); HUD User Manual (Form 50058, Tenant ID Management Section 1.1.4)

<https://www.hudexchange.info/faqs/4191/if-two-assisted-families-have-joint-custody-of-the-same-child-how-can-the/>

TAGS: HCV : Uncategorized : PIH Information Center (PIC) PH : General Administration : Other / /

Q: What should a Public Housing Agency (PHA) do when it cannot submit a HUD-50058 into

PIC until 60 days after the effective date of a transaction?

When assessing PHA performance, HUD will measure the overall timeliness of the agency's Public Housing Information Center (PIC) reporting. Although HUD understands that some transactions may not be submitted to PIC on time, PHAs must limit how often this occurs. Cross References: 50058, 60 days, effective date, PIC reporting rate References: Notice PIH 2011-65 (Section 3); Form HUD-50058 Technical Reference Guide (Chapter 2)

<https://www.hudexchange.info/faqs/4190/what-should-a-public-housing-agency-do-when-it-cannot-submit-a-hud-50058/>

TAGS: HCV : Uncategorized : PIH Information Center (PIC) PH : General Administration : Other / /

Q: Can Public Housing Agencies (PHAs) provide residents with copies of their HUD-50058?

Yes, so long as the documentation is being directly released to the participant who requested it. Any confidential information about the housing provider, such as the landlord's tax ID number, must be redacted before the HUD-50058 is released. Cross References: 50058; copy, disclosure of information References: 24 CFR 5.212(a); 5 U.S.C. § 522a(b)

<https://www.hudexchange.info/faqs/4189/can-public-housing-agencies-provide-residents-with-copies-of-their/>

TAGS: HCV : Uncategorized : General Administration PH : General Administration : Other / /

Q: How are family members of a live-in aide coded on the HUD-50058?

They should be coded as live-in aides on the HUD-50058. Additional bedrooms cannot be granted for family members of a live-in aide. Cross References: 50058, live-in aide, PIC References: Notice PIH 2014-25 (Section 3); Form HUD 50058 Instruction Booklet (Section 3: Household)

<https://www.hudexchange.info/faqs/4188/how-are-family-members-of-a-live-in-aide-coded-on-the-hud-50058/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: Can a tenant transfer to a different housing program as part of a Violence Against Women Act (VAWA) emergency transfer?

Yes. If the participant is eligible, they may be transferred to another HUD program. For example, if a Public Housing Agency (PHA) has a single Public Housing site, simply moving the family to another unit might not protect the family. Finding emergency housing and using the Housing Choice Voucher (HCV) program could be the best course of action to remove them from the violence. Cross References: VAWA, Transfer, Emergency Transfer References: 24 CFR 5.2005(e) ; Notice PIH 2017-08 (Section 12)

<https://www.hudexchange.info/faqs/4187/can-a-tenant-transfer-to-a-different-housing-program-as-part-of-a-violence/>

TAGS: HCV : Moves and Portability : Portability PH : Transfers / /

Q: What are some forms of documentation used to verify eligibility for protection under the Violence Against Women Act (VAWA)?

The Public Housing Agency (PHA) may use Form HUD-5382, which serves as a self-certification that the applicant/participant is a victim. For emergency transfers, the Form HUD-5383 should be used. PHAs may also accept a record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency. Otherwise, the participant or applicant may also submit the following: A document signed by an employee, agent, or volunteer of a victim service provider A document signed by an attorney, or medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse If one of the two documents above are used, it must be signed by the victim and specify under penalty of perjury that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for the protections and remedies afforded under VAWA, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant may also be accepted. Cross References: VAWA, Transfer, Emergency Transfer References: 24 CFR 5.2007(b)(1)c; Notice PIH 2017-08 (Sections 8, 12); HUD Multifamily VAWA Resources Page

<https://www.hudexchange.info/faqs/4186/what-are-some-forms-of-documentation-used-to-verify-eligibility/>

TAGS: HCV : Moves and Portability : Portability PH : Transfers / /

Q: Do Violence Against Women Act (VAWA) transfers take priority over all other transfers?

VAWA transfers must be treated as emergency transfers. The Public Housing Agency (PHA)'s Emergency Transfer Plan must specifically detail how priority will be given to tenants who qualify for emergency transfer under VAWA, relative to other categories of tenants seeking transfers. HUD's guidance to PHAs specifies that within the Public Housing program, the policies in the Emergency Transfer Plan ensure that emergency transfers under VAWA must receive at least the same priority as other types of emergency transfers. Because owners receiving HAP on behalf of an HCV participant in PBV are not required to establish an Emergency Transfer Plan, the PHA must have emergency transfer policies for PBV participants. PBV participants under VAWA who have lived in the PBV unit for at least one year must be given priority for the next available opportunity for continued tenant-based rental assistance. PHAs must include policies in their Emergency Transfer Plan that address what happens when the victim has been living in a unit for less than one year, or when the victim seeks to move sooner than a tenant-based voucher will be available. Otherwise, PHAs have latitude to define their policy in the Emergency Transfer Plan within the parameters of the guidance provided in Notice PIH 2017-08. Cross References: Public Housing, VAWA, Violence Against Women Act, Emergency Transfer, Policy References: 24 CFR 5.2005(e)(2)(ii)(B)(3); Notice PIH 2017-08 (Section 12)

<https://www.hudexchange.info/faqs/4185/do-violence-against-women-act-transfers-take-priority-over-all-other/>

TAGS: HCV : Moves and Portability : Portability PH : Transfers / /

Q: Is a Public Housing Agency (PHA) required to have a Violence Against Women Act (VAWA) Emergency Transfer policy?

Yes, PHAs are required to adopt an Emergency Transfer Plan, based on HUD's model Emergency Transfer Plan (Form HUD-5381), available on the HUD website. Owners of housing under HCV assistance (including project-based housing) that are not considered "PHA-Owned" are not required to adopt an Emergency Transfer Plan. If an owner receives a request for an emergency transfer, the owner is encouraged to explain to the victim that the PHA is the covered housing provider for this activity, and that the PHA should be contacted directly. Cross References: VAWA, Transfer, Emergency Transfer Policy References: Notice PIH 2017-08 (Sections 10, 12), 24 CFR 5.2005(a); 24 CFR 5.2005(e); HUD Multifamily VAWA Resources Page

<https://www.hudexchange.info/faqs/4184/is-a-public-housing-agency-required-to-have-a-violence-against-women/>

TAGS: HCV : Moves and Portability : Portability PH : Transfers / /

Q: Can a Public Housing Agency (PHA) terminate a participant victim protected under the Violence Against Women Act (VAWA) if the victim has defaulted on an active repayment agreement?

Possibly. 24 CFR 982.552(c)(vii) states that Public Housing Agencies (PHAs) have discretion to terminate assistance when a program participant breaches a repayment agreement. However, if the program participant is protected under VAWA, the PHA must not terminate assistance if the participant's breach of the repayment agreement was premised on an act of domestic violence, dating violence, sexual assault, or stalking. For example, if the program participant was forced to quit their job in order to flee a stalker, and the victim could not fulfill their obligations under the repayment agreement as a result, the PHA must not terminate assistance. Cross References: VAWA, move, repayment References: 24 CFR 966.4(l)(2)(iii); 24 CFR 982.552(c)(vii); 24 CFR 5.2005(d)(2)

<https://www.hudexchange.info/faqs/4183/can-a-public-housing-agency-terminate-a-participant-victim-protected/>

TAGS: HCV : Terminations : Terminations PH : Lease Requirements : Tenant Obligations / /

Q: Is there a timeframe by which an alleged victim must request protection under the Violence Against Women Act (VAWA) after an incident of domestic violence?

The regulations do not expressly state when an individual must request protection under VAWA. Typically, VAWA considerations are raised after an adverse action is taken against a participant (such as a proposal to terminate assistance). On the other hand, the Public Housing Agency (PHA) may request written documentation of the abuse or incident from the alleged victim. If the alleged victim does not provide documentation after 14 business days of receiving the PHA's request, the PHA has the discretionary authority to deny protections that would otherwise be afforded under VAWA. Cross References: VAWA, family obligations, termination hearing References: 24 CFR 5.2007(a) and (b); Notice PIH 2017-08 (Section 8)

<https://www.hudexchange.info/faqs/4182/is-there-a-timeframe-by-which-an-alleged-victim-must-request-protection/>

TAGS: HCV : Terminations : Terminations PH : Lease Requirements : Tenant Obligations / /

Q: When proposing program termination, do Public Housing Agencies (PHAs) have the

authority to insist that an alleged victim of domestic violence present a Violence Against Women Act (VAWA) case at the informal hearing?

The PHA cannot require a family member to raise a particular defense at the informal hearing. The family member's defense, if any, is at their choosing. Cross References: VAWA, family obligations, termination; hearing References: 24 CFR 5.2005-2011; Notice PIH 2017-08; 24 CFR 966.56; 24 CFR 982.555

<https://www.hudexchange.info/faqs/4181/when-proposing-program-termination-do-public-housing-agencies/>

TAGS: HCV : Terminations : Terminations PH : Lease Requirements : Tenant Obligations / /

Q: Can a Public Housing Agency (PHA) terminate assistance, or a landlord evict a tenant, if a family member engages in criminal acts of violence against another member? If that individual is the head of household, can the PHA allow remaining family members to assume the voucher?

In cases of domestic violence, dating violence, sexual assault, or stalking, a PHA or Housing Choice Voucher program (HCV) landlord may bifurcate a lease to evict, remove, or terminate assistance of the perpetrator while allowing the victim to retain assistance. This must be done in accordance with state or local law for termination of leases, as some jurisdictions prohibit partial or single tenant evictions. Cross References: VAWA, family obligations, termination; hearing; bifurcate References: 24 CFR 5.2009(a); Notice PIH 2017-08 (Section 16)

<https://www.hudexchange.info/faqs/4180/can-a-public-housing-agency-terminate-assistance-or-a-landlord-evict/>

TAGS: HCV : Terminations : Terminations PH : Lease Requirements : Tenant Obligations / /

Q: Does the Violence Against Women Act (VAWA) require Public Housing Agencies (PHAs) to offer victims a second opportunity for an informal hearing if they missed the deadline to request an informal hearing?

There is no statutory nor regulatory VAWA authority that expressly addresses such a circumstance. The spirit of VAWA strongly suggests that a victim who is fleeing abuse should be given every opportunity within reason to have an informal hearing. Cross References: VAWA, family obligations, termination; hearing References: 24 CFR 5.2005; Notice PIH 2017-08; 81 FR 80724, Pub. 11/16/2016

<https://www.hudexchange.info/faqs/4179/does-the-violence-against-women-act-require-public-housing-agencies/>

TAGS: HCV : Informal Hearings & Reviews : Informal Hearings PH : Grievance Procedures : General Requirements /

Q: Can a Public Housing Agency (PHA) terminate the assistance of a victim of domestic violence, dating violence, sexual assault, or stalking if participant-submitted Violence Against Women Act (VAWA) documentation indicates the abuser is an unauthorized occupant?

A PHA may terminate assistance in this scenario so long as the participant's violation of the family obligations is not premised on an act of domestic violence, dating violence, sexual assault, or stalking. Before proposing termination, PHAs should keep in mind the following factors: Whether the PHA consistently takes enforcement action when unauthorized occupants are discovered in an assisted household. Whether the documentation in question is a reliable indicator that the abuser was, in fact, residing in the unit. Whether the victim was coerced into allowing the abuser to move into the unit. Whether the participant's alleged infraction outweighs their need for stable housing. The totality of circumstances surrounding the case must be carefully considered. Cross References: VAWA, family obligations, termination References: 24 CFR 5.2005(d)(2); 24 CFR 5.2009(c); Notice PIH 2017-08 (Section 7); 81 FR 80724(Section II.B.1.a and Section II.B.11), Pub. 11/16/2016; 24 CFR 966.4(l)(2)(iii); 24 CFR 982.552(c)(2)

<https://www.hudexchange.info/faqs/4178/can-a-pha-terminate-the-assistance-of-a-victim-of-dv/>

TAGS: HCV : Terminations : Terminations PH : Lease Requirements : Tenant Obligations / /

Q: How should income be calculated when someone should receive court-ordered child support but the non-custodial parent is not paying?

The regulations state that annual income means all amounts, monetary or not, which either: Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member Are anticipated to be received from a source outside the family during the 12-month period following admission or the annual reexamination effective date If a family claims they are not receiving child support income, and this can be verified through third-party means, the Public Housing Agency (PHA) would include only the amounts actually paid in the determination of annual income. PHAs cannot require families to pursue the payment of child support. If the family begins receiving the child support income between annual reexaminations, the family should comply with the PHA's interim reexamination policy. Cross References: child support, anticipated income References: 24 CFR 5.609(a) and (b)(7)

<https://www.hudexchange.info/faqs/4177/how-should-income-be-calculated-when-someone-should-r>

receive-court-ordered/

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Calculation of Income PH : Income Determination : Income Verification / /

Q: How should Public Housing Agencies (PHAs) calculate income when it is partially reduced due to a garnishment for taxes, alimony, or child support?

PHAs must use the gross amount to calculate wage income, and the full amount of period amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts. It should be noted that this rule does not apply to Social Security Administration (SSA) overpayment deductions from Social Security (SS) or Supplemental Security Income (SSI) benefits. In these situations, regardless of the amount withheld to repay SSA or the length of the anticipated withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment from the gross benefit. Cross References: garnishment, reduced benefit, gross income, calculation References: 24 CFR 5.609(b)(1) and (b)(4); Notice PIH 2018-24 (Section 21)

<https://www.hudexchange.info/faqs/4176/how-should-phas-calculate-income-when-it-is-partially/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Calculation of Income PH : Income Determination : Income Verification / /

Q: Are Public Housing Agencies (PHAs) required to use Form HUD-9886 to verify deposits and transactions made through apps such as Zelle, PayPal, Venmo, and Cash App?

No. Instruments such as PayPal, Venmo, Zelle, and Cash App are not considered financial institutions and PHAs are not required to verify deposits and transactions made through them. Any benefit derived from a policy requiring PHAs to track these instruments would be outweighed by the administrative burden it would pose. E-commerce money transfer instruments are not considered financial institutions per the Right to Financial Privacy Act (12 U.S.C. § 3401) since they must be linked to an existing bank account. For the most part, individuals use these instruments in lieu of cash, cards, or checks. If a payor uses these instruments to send \$600 or more to a payee, they would be required to file IRS Form 1099-MISC. This requirement would make any income paid through these instruments trackable on the participant's or applicant's income tax return, which can be verified with IRS Form 4506-T. Cross References: Public Housing, HCV, Zelle, PayPal, Venmo, Cash App, Money, Cash, Transfer, Income, Banking, Accounts, Income Inclusions, Income Exclusions References: Form HUD-9886, 12 U.S.C. § 3401

<https://www.hudexchange.info/faqs/4175/are-phas-required-to-use-form-hud-9886-to-verify-deposits/>

Q: A Public Housing Agency (PHA) has a witness protection program preference and would like to open the waiting list for Public Housing families eligible for this preference. Can they limit the opening of the waiting list only for tenants living in Public Housing?

Yes. PHAs are able to open the waiting list only for families who qualify for a specific preference. PHA local preferences must be based upon local housing needs and priorities, as determined by the PHA. When determining local housing needs and priorities, the PHA must use generally accepted data sources. The preferences must also be stated in the admission policy of the PHA's Administrative Plan, and public comment on the proposed preferences must be considered before adoption. The PHA must give public notice when the waiting list is open, but applications can be limited to the specific population. HUD also has a program, the Witness Relocation Program, that provides Housing Choice Vouchers and offers protection to relocate persons who are cooperating as witnesses in the government's efforts to combat violent crimes occurring in and around Public, Indian, and other HUD-assisted housing to another PHA's jurisdiction. The family must be otherwise eligible to receive Section 8 housing voucher assistance. Generally, the OIG contacts the PHA when a witness protection voucher is needed. This status is not determined by the PHA. Cross References: Witness protection; witness relocation References: 24 CFR 982.206(b); Notice PIH 1996-83; HUD Witness Relocation Program Page

<https://www.hudexchange.info/faqs/4174/a-pha-has-a-witness-protection-program-preference-and-would/>

Q: Are the grievance procedures in Public Housing and the Housing Choice Voucher program (HCV) the same?

No, grievance procedures differ between Public Housing and HCV. Specifically, the grievance procedure in Public Housing is detailed in 24 CFR Part 966 and can be found in the Admissions and Continued Occupancy Plan (ACOP) for Public Housing. Instead of grievance procedures, the HCV program has informal hearing and reviews. The HCV program regulations can be found at 24 CFR 982.555 and the PHA specific policies can be found in the Administrative Plan. Cross References: Grievance Procedure, Grievance, Public Housing, HCV, Voucher, ACOP, Administrative Plan References: 24 CFR Part 966; 24 CFR 982.555

<https://www.hudexchange.info/faqs/4173/are-the-grievance-procedures-in-ph-and-hcv-the-same/>

Q: May a Public Housing Agency (PHA) terminate assistance on the basis of a lifetime sex offender registration requirement if the individual in question was on the program prior to the implementation of the 2001 Screening and Eviction rule?

There are currently no regulations that allow a PHA to terminate assistance based only on lifetime sex offender status for residents or participants who entered the program prior to the 2001 Screening and Eviction rule. Other regulations continue to apply, including the ability to terminate assistance for criminal activity or for not being truthful on an application. If any of these apply, the PHA may seek to terminate assistance under these regulations, but not under the ban on admission for lifetime sex offenders. Cross References: sex offender, lifetime registration References: 24 CFR 982.551(b)(1) and (b)(4); 24 CFR 982.552(c)(1)(i); 24 CFR 982.553(b), (c), and (d); 24 CFR 960.204(a)(4); Notice PIH 2012-28

<https://www.hudexchange.info/faqs/4172/may-a-pha-terminate-assistance-on-basis-of-a-lifetime-sex-offender/>

Q: Is a Public Housing Agency (PHA) required to terminate assistance for a participant who violates a repayment agreement? If a PHA decides to terminate for a participant's violation of a repayment agreement, must the PHA provide the family an opportunity for an informal hearing?

The regulations give discretion to the PHA about whether to terminate assistance if the family breaches a repayment agreement. Also, a PHA must give a participant an opportunity for an informal settlement and then a hearing if the complainant is not satisfied when determining whether to terminate assistance for a family's action or failure to act. PHAs are not permitted to forgive the debt. Cross References: repayment; debt owed References: 24 CFR 982.552(c)(1)(vii) and (c)(2), 24 CFR 982.555(a)(1)(iv), 24 CFR 966.54, 24 CFR 96.56, Notice PIH 2018-18 (Section 16)

<https://www.hudexchange.info/faqs/4171/is-a-pha-required-to-terminate-assistance-for-a-participant/>

Q: If the only family member who has eligible citizenship or immigration status passes away or vacates the unit, what assistance does the Public Housing Agency (PHA) offer the remaining ineligible members?

If there are no remaining family members with eligible immigration status residing in the unit, the family is no longer eligible to receive assistance and must be terminated from the program. PHAs may grant a temporary deferral of termination of assistance if the family demonstrates reasonable efforts to find other affordable housing and there is a lack of open affordable housing units in the jurisdiction. The deferral period should not exceed six months with some options to extend. Cross References: noncitizen, remaining member References: 24 CFR 5.504(b); 24 CFR 5.518 (b)(1) and (b)(3)

<https://www.hudexchange.info/faqs/4170/if-the-only-family-member-who-has-eligible-citizenship-or-immigration/>

TAGS: HCV : Terminations : Terminations PH : Eligibility Determination and Denial of Assistance : Citizenship Status /

Q: When a tenant's debt to the Public Housing Agency (PHA) is discharged under bankruptcy, must the PHA eliminate the debt and cancel the repayment plan?

The tenant filing bankruptcy does not remove the debt owed or termination information from HUD's Enterprise Income Verification (EIV) system. However, if the debt is included in the bankruptcy filing and/or the debt has been discharged by the bankruptcy court, the PHA is required to update the record accordingly when provided documentation of bankruptcy status. The PHA would have to consult an attorney in this matter, particularly regarding recourse. If the tenant is current on their repayment agreement, there would not be grounds for termination. However, if their debt to the PHA is negated, the repayment agreement would be moot. Cross References: repayment, bankruptcy References: Form HUD-52675

<https://www.hudexchange.info/faqs/4169/when-a-tenants-debt-to-the-pha-is-discharged-under-bankruptcy/>

TAGS: HCV : Terminations : Repayment Agreements and Debts Owed to PHAs PH : Eligibility Determination and Denial of Assistance : EIV System Searches at Admission //

Q: Can a Public Housing Agency (PHA) deny the addition of someone to family composition if that person comes to the family owing money to another PHA?

PHAs are required to use the Enterprise Income Verification (EIV) system in its entirety, which includes the Debts Owed to PHAs module. HUD indicates that this information is used to “avoid providing limited Federal housing assistance to families who have previously been unable to comply with HUD program requirements. If the reported information is accurate, a PHA may terminate your current rental assistance and deny your future request for HUD rental assistance, subject to PHA policy.” The PHA Administrative Plan should address whether an applicant with a Debt should be admitted. Cross References: eligibility; minor; debt owed References: Notice PIH 2018-18 (Sections 14, 19); 24 CFR 5.233; 24 CFR 960.202(c); 24 CFR 960.203(c)(1); Form HUD 52675

<https://www.hudexchange.info/faqs/4168/can-a-pha-deny-the-addition-of-someone-to-family-composition/>

TAGS: HCV : Terminations : Repayment Agreements and Debts Owed to PHAs PH : Eligibility Determination and Denial of Assistance : EIV System Searches at Admission / /

Q: Can a Public Housing Agency (PHA) make a reasonable accommodation for medical marijuana in a State which allows medical and/or recreational marijuana?

No. Consistent with Federal law, HUD prohibits the admission of users of marijuana to HUD assisted housing, including those who use medical marijuana. Pursuant to the Controlled Substances Act, 21 U.S.C. § 801 et. seq., marijuana is categorized as a Schedule 1 substance; therefore, the manufacture, distribution, or possession of marijuana is a federal criminal offense. Section 577 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) requires that PHAs administering HUD rental assistance programs to establish standards and lease provisions that prohibit admission to HUD rental assistance programs based on the illegal use of controlled substances, including state legalized medical marijuana. Absent a change in Federal law, HUD does not have the discretion to admit users of marijuana, including medical marijuana, to HUD assisted programs. With regard to continued occupancy after admission, QHWRA requires that PHAs establish policies allowing the termination of the tenancy of any household where the PHA has determined that a member is illegally using a controlled substance or the use thereof interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. Cross References: Public Housing, Reasonable Accommodation, Marijuana, Medical Marijuana, Pot, Weed, eligibility, continued eligibility References: HUD Memorandum “Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs,” February 10, 2011; HUD Memorandum “Use of Marijuana in Multifamily Assisted Properties,” December 29, 2014

<https://www.hudexchange.info/faqs/4167/can-a-pha-make-a-reasonable-accommodation-for-medical-marijuana/>

TAGS: HCV : Fair Housing : Reasonable Accommodations PH : Fair Housing and Nondiscrimination Requirements : Reasonable Accommodations / /

Q: Is a licensed social worker a knowledgeable professional who can verify a disability?

Yes. A licensed social worker is a knowledgeable professional in a position to know about an individual's disability and is therefore an appropriate source of third-party verification. A doctor or other medical professional, a peer support group, a non-medical service agency, or other reliable third party are all also considered knowledgeable professionals. Cross References: disability verification; qualified professional References: HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, 5/17/04 (8)

<https://www.hudexchange.info/faqs/4166/is-a-licensed-social-worker-a-knowledgeable-professional-who-can-verify/>

TAGS: HCV : Fair Housing : Reasonable Accommodations PH : Fair Housing and Nondiscrimination Requirements : Reasonable Accommodations //

Q: When no member of an assisted family receives Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI), and the family has not provided documentation to verify a disability and the need for a requested accommodation, can the family be refused a reasonable accommodation?

Yes, so long as the disability and requested accommodation are not readily apparent or known, in which case the Public Housing Agency (PHA) would not need to verify either. If a disability is evident, but the need for the accommodation is not readily apparent or known, the provider may only request information that is needed to evaluate the disability-related need for the accommodation. Otherwise, if a disability is not readily apparent, the PHA may request information that is necessary to verify that the person has a physical or mental impairment that substantially limits one or more major life activities, that describes the needed accommodation, and shows the relationship between the person's disability and the need for the requested accommodation. If the individual in question does not receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), the PHA can accept a credible statement by a doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability. PHAs are not permitted to inquire about nature or severity of the person's disability and should never inquire about an individual's specific diagnosis or details of treatment. If the family cannot provide this information to the PHA, the PHA should request contact details for a knowledgeable professional from the family and attempt to verify the disability via independent third-party verification. In so doing, the PHA should only request information that is actually necessary to verify that the person has a disability and that there is a reasonable nexus between the disability and requested accommodation. Cross References: disabled, verify disability References: Notice PIH 2010-26 (Section E); HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, 5/17/04 (Questions 17, 18); Notice PIH 2018-18 (Section 8)

<https://www.hudexchange.info/faqs/4165/when-no-member-of-an-assisted-family-receives-social-sec>

urity-disability/

TAGS: HCV : Fair Housing : Reasonable Accommodations PH : Fair Housing and Nondiscrimination Requirements : Reasonable Accommodations //

Q: What is the Public Housing Agency (PHA)'s responsibility when it comes to providing materials for persons with Limited English Proficiency (LEP)?

In considering which forms to translate, PHAs must make an individual assessment that takes into account the following factors: The importance of the service, benefit, or activity and the nature of the information sought The number or proportion of LEP persons served by the agency The frequency with which LEP persons need the particular information in question, and the frequency of encounters with the particular language being considered for translation Resources available, including costs HUD provides extensive guidance on the topic in the Federal Register (FR), published on January 22, 2007 (Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, Volume 72, No.13) HUD also provides "safe harbors" for written translations that are considered strong evidence of LEP compliance at 72 FR 2753 (Section XXI). Cross References: translation, alternate forms References: 72 FR 2731 (pg. 2753), Pub. 01/22/2007; 24 CFR 1.4(b)(2)(i)

<https://www.hudexchange.info/faqs/4164/what-is-the-phas-responsibility-when-it-comes-to-providing/>

TAGS: HCV : Fair Housing : Limited English Proficiency PH : Fair Housing and Nondiscrimination Requirements : Reasonable Accommodations //

Q: During reexamination, can assistance continue for a minor child if the head of household (HOH) is now deceased?

Public Housing Agencies (PHAs) should have an established policy for dealing with situations when the HOH dies during tenancy and the remaining household members are minors. A common practice of PHAs includes (but is not limited to) allowing a temporary adult guardian to reside in the unit until a court-appointed guardian is established. The HOH must be a person who is legally able to sign a lease. In accordance with its screening policies, the PHA may add the new guardian as the new HOH. PHAs are encouraged to work with the local Department of Social Services to ensure that the best interests of the children are addressed. Cross References: inherit, family break up, surviving member; remaining minor(s) References: 24 CFR 982.308(a); 24 CFR 982.315; Notice PIH 2010-50 (Section 11)

<https://www.hudexchange.info/faqs/4163/during-reexamination-can-assistance-continue-for-a-minor-child-if-the-head/>

Q: Are Public Housing Agencies (PHAs) permitted to require a court order verifying a guardianship arrangement when a resident requests to add a minor to their household and the biological parent is not a member that that household?

No. A notarized document or tenant self-certification is acceptable. Despite the lack of specific guidance in this area, a policy requiring a court order could potentially violate the Fair Housing Act's familial status discrimination provisions. Cross References: Public Housing, HCV, Family, Children, Fair Housing, Family Composition, Familial Status, Self-certification, Verification References: 42 U.S.C. § 3602(k)

<https://www.hudexchange.info/faqs/4162/are-public-housing-agencies-phas-permitted-to-require-a-court-order/>

Q: May a Public Housing Agency (PHA) count an interim reexamination as the annual reexamination?

A PHA is not required to wait twelve months from the previous annual reexamination (or program admission) to conduct a complete reexamination. To count as an annual reexamination, all annual reexamination requirements must be met, such as recalculating assets, income, medical deductions, etc. Some PHAs only recalculate income when completing an interim; this would not satisfy the requirements of the annual reexamination and could not be used as the annual. Additionally, care should be taken to ensure that annual forms such as the Form HUD-9886 are signed in advance of a future review of Enterprise Income Verification (EIV) data. The reexamination will also need to be coded as an annual reexamination on the HUD Form 50058. Cross References: interim, annual References: 24 CFR 960.257 (a) and (b) 24 CFR 982.516 (a) and (g)

<https://www.hudexchange.info/faqs/4161/may-a-pha-count-an-interim-reexamination-as-the-annual-reexamination/>

Q: What is the impact of short-term versus long-term hardships when the family is subject to the minimum rent?

PHAs must suspend family payment of a minimum rent amount that is more than zero if the family states there is a hardship in making the minimum rent. Public Housing Agencies (PHAs) must then decide if the hardship is temporary or long term. HUD lists hardship circumstances at 24 CFR 5.630. PHAs must define temporary and long-term hardships in their Administrative Plans. If the hardship is determined to be temporary, the family must repay the suspended rent and be offered a reasonable repayment plan. If the hardship is long-term, there is no repayment due, and the suspension continues until the hardship no longer exists. Denial of a long-term hardship request is subject to appeal via informal hearing. Cross References: hardship, minimum rent References: 24 CFR 5.630(b)(2)

<https://www.hudexchange.info/faqs/4160/what-is-the-impact-of-short-term-versus-long-term-hardships-when-the-family/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Verification / /

Q: Is a policy to require a zero-income statement from people claiming no income and the completion of a zero-income worksheet consistent with HUD regulations?

This is not a HUD requirement, however, Public Housing Agencies (PHAs) may set a policy in their Administrative Plan or Admissions and Continued Occupancy Policy (ACOP) to require zero income families to sign a statement and complete a zero-income worksheet. The policy must be applied consistently. Cross References: zero income, no income, minimum rent, hardship References: Notice PIH 2018-18 (Section 8)

<https://www.hudexchange.info/faqs/4159/is-a-policy-to-require-a-zero-income-statement-from-people-claiming-no/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Verification / /

Q: Is there any guidance that provides a more specific definition of a full-time student than 24 CFR 5.603?

Yes. According to 24 CFR 5.603, a full-time student a person who is attending school or vocational training on a full-time basis. The attachment to Notice PIH 2004-01 clarifies that “full-time status” is defined by the school or vocational training center in question. Typically, full-time status consists of 12 or more attempted credit hours per semester/quarter, but this need not always be the case. Cross

References: full time status, full time student References: 24 CFR 5.603; Notice PIH 2004-01 (Attachment HUD Verification Guidance, Section X)

<https://www.hudexchange.info/faqs/4158/is-there-any-guidance-that-provides-a-more-specific-definition-of-a-full/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Can tuition for preschool be claimed as childcare?

Tuition may be deducted as childcare as long as it meets the other criteria for childcare expenses. Cross References: preschool, tuition, childcare References: 24 CFR 5.611(a)(4)

<https://www.hudexchange.info/faqs/4157/can-tuition-for-preschool-be-claimed-as-childcare/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Should expenses incurred for a companion animal be considered disability assistance expenses or unreimbursed medical expenses (when determining adjusted income), or neither?

These expenses could be considered in either category. Service animals are allowable medical expenses in IRS Publication 502, which HUD recommends Public Housing Agencies (PHAs) use as a standard for determining allowable medical expenses. The expense would have to meet the definition of either a disability assistance expense or a medical expense to be deducted. Each definition has different criteria. Cross References: medical deduction, medical expense; disability expense, service animal, assistance animal, companion animal, therapy animal References: 24 CFR 5.603; 24 CFR 5.611(a)(3); IRS Publication 502

<https://www.hudexchange.info/faqs/4156/should-expenses-incurred-for-a-companion-animal-be-considered-disability/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Inclusions and Exclusions / /

Q: May a Public Housing Agency (PHA) disallow a deduction for childcare expenses if there is an unemployed adult family member present in the household?

No. A PHA may not disallow a deduction for childcare expense because there is an unemployed adult family member that may be available to provide childcare. A PHA may not decide who will provide childcare for a participant's child(ren), nor may the PHA decide the type of childcare available for a participant's child(ren). Cross References: childcare, day care, unemployed, other adult References: 24 CFR 5.611(a)(4); HUD Verification Guidance (Section X), Notice PIH 2004-01

<https://www.hudexchange.info/faqs/4135/may-a-public-housing-agency-pha-disallow-a-deduction-for-childcare/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Does the income of a National Guard family member that goes to basic training qualify as an income exclusion?

The income of a Housing Choice Voucher (HCV) or Public Housing (PH) participant serving in the military is only excluded if the individual is exposed to hostile fire. If the household includes other family members, the provisions on absence from the unit do not apply; any income received for basic training would be counted towards family income. Cross References: military, military pay, basic training, hostile fire References: 24 CFR 5.609(b)(8); 24 CFR 5.609(c)(7); Form HUD 50058 Instruction Booklet

<https://www.hudexchange.info/faqs/4134/does-the-income-of-a-national-guard-family-member-that-goes/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Can Public Housing Agencies (PHAs) require individuals who are 17-years old at the time of a re-examination interview to sign the HUD Form 9886 if they will be 18 years old by the reexamination effective date?

No. Only persons who are 18 years old or older can sign the form. The only qualification to this rule applies when the member in question is the head of household or spouse. Cross References: minor,

9886, Consent to Release Information References: 24 CFR 5.230(a) and (2)(ii)

<https://www.hudexchange.info/faqs/4133/can-public-housing-agencies-phas-require-individuals-who-are-17-years-old/>

TAGS: HCV : Reexaminations PH : Reexaminations : Reexamination Process / /

Q: Should the Post-9/11 Veterans Educational Assistance Act (VEAA) housing allowance be considered as income? Is it considered a duplicate subsidy?

HUD has determined that such a housing allowance as may be received under the Post-9/11 VEAA is not considered a duplicate subsidy. However, the amount received for the housing allowance must be counted when determining the family's income and rent. Cross References: GI Bill, VEAA, housing assistance References: 24 CFR 5.609(b)(9); HUD VASH Policy Frequently Asked Questions

<https://www.hudexchange.info/faqs/4132/should-the-post-9-11-veterans-educational-assistance-act-veaa-housing/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Does the earned income exclusion for full-time students apply to income from unemployment payments?

Unemployment payments are considered different from earnings. Since the income exclusion rule for "earnings in excess of \$480 for each full-time student 18 years or older" only refers specifically to earnings, unemployment payments do not qualify for exclusion. Unemployment is considered part of income, so the full amount of the income from unemployment payments received by the student must be counted as income. Cross References: student, unemployment, payments in lieu of earnings References: 24 CFR 5.609(b)(5)

<https://www.hudexchange.info/faqs/4131/does-the-earned-income-exclusion-for-full-time-students-apply-to-income/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: How would a Public Housing Agency (PHA) calculate annual income when the family has received back payments of past-due child support? Can this be treated as a lump sum payment?

Yes, this can be treated as a lump sum payment. Child support can be one of the most difficult types of income to calculate. A clear PHA procedure ensures that all tenants are treated fairly. HUD advises PHAs to avoid annualizing these larger back payments as though they were regular current payments, which can result in grossly over-counting the tenant's anticipated income from child support. If the PHA can determine that the family is regularly receiving back payment of overdue amounts, the PHA can then annualize them accurately and add to annual income. Otherwise, the PHA should default to considering such payments as lump sums or sporadic. Cross References: back child support, child support, overdue child support, lump sums, sporadic References: 24 CFR 5.609(b)(7) and (c)(9)

<https://www.hudexchange.info/faqs/4130/how-would-a-public-housing-agency-pha-calculate-annual-income-when-the/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Are Black Lung benefits excluded from income?

No, this income should not be excluded. The Black Lung Benefits Act provides no income exclusion for purposes of calculating Federal benefits. Cross References: Excluded Income, exclusions, black lung References: 24 CFR 5.609(a)(3) and (c); Public Housing Guidebook Chapter 4, "Income Determination" (Exhibit 1)

<https://www.hudexchange.info/faqs/4129/are-black-lung-benefits-excluded-from-income/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Does the student income exclusion apply for an adult family member (who is not the head of household or spouse) that is a full-time student? Does the dependent deduction of \$480 apply in this case since the adult family member is a full-time student?

Yes, the student income exclusion applies in this case because such exclusion applies to full-time

students (who are not the head of household and spouse) who are 18 years old or older. Any member of the family (except the head of household, spouse, foster children, and foster adults) that is a full-time student qualifies as a dependent and for all associated deductions. Cross References: dependent, student, age, mandatory deductions, adjusted income References: 24 CFR 5.603; 24 CFR 5.609(c)(11); Public Housing Guidebook Chapter 4, "Income Determination" (Exhibit 1)

<https://www.hudexchange.info/faqs/4128/does-the-student-income-exclusion-apply-for-an-adult-family-member-who-is/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Should Achieving a Better Life Experience (ABLE) tax-advantaged savings accounts be counted as assets, and should distributions from such accounts be included as annual income?

HUD has provided the following instructions regarding ABLE accounts: Distributions from ABLE accounts are excluded from income. The entire value of an ABLE account is excluded from assets. If the designated beneficiary deposits any amount previously included as income into their ABLE account, that deposited amount must also be excluded from the household's asset calculation and must not be counted as income again when the beneficiary receives a distribution from the account. Gifts made directly to ABLE accounts by third parties are excluded from income. Income that the participant receives in their name, for example Social Security or wage income, is still counted as income, even if the money is direct deposited into the ABLE account. However, pre-tax employer contributions to the ABLE account that are not deducted from wages are excluded from annual income. Rollovers from existing ABLE accounts to the designated beneficiary's ABLE account are not counted as annual income to the designated beneficiary. Cross References: Public Housing, HCV, ABLE account, Achieving a Better Life Experience, Disability, Income, Assets, Income Inclusions, Income Exclusions References: Notice PIH 2019-09

<https://www.hudexchange.info/faqs/4127/should-achieving-a-better-life-experience-able-tax-advantaged-savings/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Is income received through the Senior Community Service Employment Program (SCSEP) excluded?

Yes, it is excluded income. The Senior Community Service Employment Program (SCSEP), a Department of Labor program, satisfies the regulatory exclusions at 24 CFR 5.609(c)(17). This is

because the Older Americans Act (OAA) (42 U.S.C. § 3056(g)) excludes income earned under the section for purposes of determining the eligibility of individuals for participation in any housing program for which Federal funds may be available. All HUD-assisted housing programs have Federal funding, which makes the income exclusion identified in this section of the OAA applicable. Further, HUD's interpretation of "eligibility" as stated in the OAA includes both initial eligibility and continued occupancy. Cross References: Public Housing, HCV, Income, Inclusions, Exclusions, Adjusted Income, TTP, Income Inclusions, Income Exclusions, SCSEP, Senior Community Service Employment Program References: 24 CFR 5.609(c)(17); 42 U.S.C. § 3056(g)

<https://www.hudexchange.info/faqs/4126/is-income-received-through-the-senior-community-service-employment-program/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Alimony is no longer considered taxable income. Is it still considered income by HUD?

Yes, alimony is included income. At 24 CFR 5.609, annual income is defined as all amounts, monetary or not, which are not specifically excluded. Specific exclusions can be found at 24 CFR 5.609(c). Furthermore, 24 CFR 5.609(b)(7) specifically includes alimony as an example of annual income that should be included when determining the rent of a family. Any income that is not specifically excluded by HUD regulation must be counted regardless of IRS tax treatment. Cross References: Public Housing, HCV, Alimony, Income, Taxable, Tax, IRS, Income Inclusions, Income Exclusions References: 24 CFR 5.609(b)(7)

<https://www.hudexchange.info/faqs/4125/alimony-is-no-longer-considered-taxable-income-is-it-still-considered/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Can a death benefit that is received in one lump sum be counted toward a family's income?

No. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are excluded from annual income. A death benefit received as a single lump sum should be excluded from the tenant's income. If the tenant chooses to put their portion of the money into a savings or investment account, then the housing agency would treat the interest earned on the account as it would all asset income. Cross References: lump-sum, assets, inherit, insurance settlement, capital gains References: 24 CFR 5.609(c)(3); Form HUD

<https://www.hudexchange.info/faqs/4124/can-a-death-benefit-that-is-received-in-one-lump-sum-be-counted-toward/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Are regular amounts withdrawn from an Individual Retirement Arrangements (IRA) or other investments considered income?

The withdrawal of cash or assets from an investment that is received as periodic payments should be counted as income unless the family can document, and the Public Housing Agency (PHA) verifies, that the amounts withdrawn are a reimbursement of amounts invested. When a family is making a withdrawal from an account in which it has made an investment (e.g., annuity, IRA, etc.), the withdrawals will count as income only after the amount invested has been totally paid out. Cross References: IRA, investments, withdraw References: 24 CFR 5.609(b)(3)

<https://www.hudexchange.info/faqs/4123/are-regular-amounts-withdrawn-from-an-individual-retirement-arrangements/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: How should a rental property in a special needs trust, and rental income derived from such a property, be counted toward the family's income?

The HUD definition of "net family assets" states that in cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered as an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income. Cross References: rental income, rental property, trust, trust income; revocable, irrevocable References: 24 CFR 5.603(b)

<https://www.hudexchange.info/faqs/4122/how-should-a-rental-property-in-a-special-needs-trust-and-rental-income/>

Q: Do Public Housing Agencies (PHAs) have the option of using definitions of annual income, such as the Census Long Form or IRS Form 1040, instead of what is described at 24 CFR 5.609?

No, PHAs do not have the option of using the definitions from IRS Form 1040 or the Census Long Form. PHAs must use the definition of “annual income” given in 24 CFR 5.609. The IRS Form 1040 is a source document that can be used to verify self-employment, gratuities, tips, etc. Cross References: annual income, IRS tax References: 24 CFR 5.609

<https://www.hudexchange.info/faqs/4121/do-public-housing-agencies-phas-have-the-option-of-using-definitions/>

Q: How should welfare assistance received by the family specifically for a child be handled for the purposes of determining income?

Welfare assistance payments are included as income, unless they don’t qualify as assistance under the Temporary Assistance for Needy Families (TANF) program definition at 45 CFR 260.31, or if they are specifically excluded under 24 CFR 5.609(c). Welfare assistance payments received specifically for the child family member do not meet any of the income exclusions. Cross References: TANF, welfare, public assistance References: 24 CFR 5.609(b)(6) and (c); 45 CFR 260.31

<https://www.hudexchange.info/faqs/4120/how-should-welfare-assistance-received-by-the-family-specifically/>

Q: Is money received from an inheritance considered income?

The Public Housing Agency (PHA) will need to determine how the inheritance is distributed. One-time lump sum amounts are not considered income. However, if the tenant is receiving regular,

periodic payments, that would qualify as income. Cross References: inheritance, lump sum, monthly payments References: 24 CFR 5.609(c)(3)

<https://www.hudexchange.info/faqs/4119/is-money-received-from-an-inheritance-considered-income/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Are funds from the proceeds of loans included in annual income? Does it matter if the loan originates from a retirement account, student loan, or general assistance loan?

All loans are excluded from consideration as income. Cross References: loan, 401K, retirement account, bank loan, student loan References: 24 CFR 5.609(b)

<https://www.hudexchange.info/faqs/4117/are-funds-from-the-proceeds-of-loans-included-in-annual-income/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Can a Public Housing Agency (PHA) reduce the utility payment to the participant by the amount subsidized through another program such as the Department of Health and Human Services (HHS)'s low-income Home Energy Assistance Program (HEAP)?

Payments or allowances made under HEAP are specifically excluded from income. There is no provision in the regulations to reduce the Utility Reimbursement Payment (URP) to the family based on utility assistance. Cross References: excluded income, exclusions, HEAP, URP References: 79 FR 28938, Pub. 05/20/2014; Form HUD 50058 Instruction Booklet

<https://www.hudexchange.info/faqs/4116/can-a-public-housing-agency-pha-reduce-the-utility-payment-to/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Is the amount received by veterans who received Agent Orange settlements excluded from a veteran's income? This income is part of the veteran's pension.

Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Re-Agent-product liability litigation are excluded from income. Cross References: Excluded Income, exclusions, veteran, Agent Orange References: 79 FR 28938, Pub. 05/20/2014; Form HUD 50058 Instruction Booklet

<https://www.hudexchange.info/faqs/4115/is-the-amount-received-by-veterans-who-received-agent-orange-settlements/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: How should deferred Social Security payments be treated?

Annual income does not include deferred periodic amounts from Supplemental Security Income (SSI) and Social Security Administration (SSA) benefits that are received in a lump sum amount or in prospective monthly amounts. Therefore, regardless of how the payments are made, the amount is not counted as part of annual income. Cross References: Excluded Income, exclusions, disability, lump sum References: 24 CFR 5.609(c)(14)

<https://www.hudexchange.info/faqs/4114/how-should-deferred-social-security-payments-be-treated/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Are Veteran lump sum disability payments excluded from annual income?

Yes, it would be excluded from income. Federally mandated exclusions include "payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts." Cross References: Excluded Income, exclusions, veteran, disability, lump sum References: 24 CFR 5.609(c)(3), (c)(9), and (c)(14); 79 FR 28938, Pub. 05/20/2014

<https://www.hudexchange.info/faqs/4113/are-veteran-lump-sum-disability-payments-excluded-from-annual-income/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Should a PHA be concerned about potential multiple subsidy when residents move from one program to another?

Yes. HUD rules do not permit multiple subsidy payments. Thus, the PHA should coordinate with other Federal housing providers (PHA or owner/agent of Multifamily project-based assistance). PHAs should verify potential program participation in PIC during eligibility determination. To ensure PHAs are aware of potential subsidy payment errors, PHAs are required to monitor the EIV Multiple Subsidy Report monthly. Cross References: Public Housing, HCV, EOP, End of Participation, Subsidy, Multiple Subsidy Layers, EIV, eligibility References: Notice PIH 2018-18 (Section 14); HUD 50058 Tenant ID Management FAQs

<https://www.hudexchange.info/faqs/4089/should-a-pha-be-concerned-about-potential-multiple-subsidy-when-residents/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance PH : Eligibility Determination and Denial of Assistance : EIV System Searches at Admission / /

Q: Can a Public Housing Agency (PHA) deny assistance to an applicant family due to outstanding debt that is over 10 years old? What is HUD's position when there is no local statute concerning such issues?

It is up to the PHA to establish a specific policy for determining when to deny assistance to an applicant family due to debts owed. Information regarding a person's debt can remain in the Enterprise Income Verification (EIV) system for up to 10 years. HUD provides this information to allow PHAs to assess the financial suitability of the family; HUD does not mandate termination of assistance or denial of assistance due to the fact a family may have debts owed to another PHA. That is up to the individual PHA's policy. Cross References: Public Housing, HCV, Debt, Outstanding Debt, Owed, Time for Debt, Write-off, Eligibility References: 24 CFR 982.552(c)(1)(v); Form HUD-52675

<https://www.hudexchange.info/faqs/4088/can-a-public-housing-agency-pha-deny-assistance-to-an-applicant-family/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance PH : Eligibility Determination and Denial of Assistance : EIV System Searches at Admission / /

Q: If an otherwise eligible applicant owes a debt to a dissolved Public Housing Agency (PHA), how can the debt be satisfied?

HUD does not require applicants to pay off all outstanding debts before receiving assistance. In fact, PHAs have discretion when determining suitability for tenancy and whether to deny admission on this basis. These types of debt (usually arising from nonpayment of rent or maintenance charges) are owed to the PHA and not HUD; therefore, HUD lacks the statutory authority to take action on the dissolved PHA's behalf. Cross References: Public Housing, HCV, Debt, Owed, Write-Off, Verification References: 24 CFR 982.552(c)(1)(v); Form HUD-52675

<https://www.hudexchange.info/faqs/4087/if-an-otherwise-eligible-applicant-owes-a-debt-to-a-dissolved-pha/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance PH : Eligibility Determination and Denial of Assistance : EIV System Searches at Admission / /

Q: Should income earned under the Social Security Administration's Ticket to Work program be included or excluded from income for purposes of rent calculations?

The Ticket to Work (TTW) program provides people with disabilities who receive Social Security benefits with employment training opportunities and the potential to earn income and work towards self-sufficiency. Any earned income the person receives while participating in the TTW program is not considered an exclusion and counts as income for purposes of determining rent in the Housing Choice Voucher (HCV) and Public Housing (PH) programs. The TTW program does not fall under the Social Security Administration's Plan to Attain Self-Sufficiency (PASS), which is listed as an exclusion. Cross References: Excluded Income, exclusions, ticket to work References: 24 CFR 5.609(c)

<https://www.hudexchange.info/faqs/4086/should-income-earned-under-the-social-security-administrations-ticket/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Under the Veterans Affairs (VA) Chapter 31 Vocational Rehabilitation and Employment Program, should student financial assistance (in excess of tuition) and the monthly stipend be included or excluded as income?

The Vocational Rehabilitation and Employment (VR&E) program (also referred to as VetSuccess or the Chapter 31 program) assists veterans that have service-connected disabilities to become suitably employed, maintain employment, or achieve independence in daily living. The services and benefits that an eligible veteran may receive under VR&E vary widely, but primarily this is a job training program. Benefits associated with job training programs are to be excluded. Cross References: Excluded Income, exclusions, veterans, vocational rehabilitation, employment program, VetSuccess, Chapter 31 References: 24 CFR 5.609(c)(8)(v)

<https://www.hudexchange.info/faqs/4085/under-the-veterans-affairs-va-chapter-31-vocational-rehabilitation-and/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Is income earned under the Workforce Investment Act excluded in the calculation of income?

Yes, income earned under the Workforce Investment Act is excluded in the calculation of income. Cross References: Excluded Income, exclusions, Workforce References: 79 FR 28938, Pub. 05/20/2014; 24 CFR 5.609

<https://www.hudexchange.info/faqs/4084/is-income-earned-under-the-workforce-investment-act-excluded-in-the/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: A Native American Tribal Council Resolution distributes some monies from a settlement to tribal members. Should this income be excluded, as in the Cobell v. Salazar case?

No. While the judgment awards from the Cobell v. Salazar case are specifically excluded from a tribal member's income, other judgments should be treated in accordance with the updated list of Federally Mandated Exclusions from Income, which reads: "The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interest of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands." Cross References: Excluded Income, exclusions, Indian, Claims Resolution, tribe References: 24 CFR 5.609; 79 FR 28938, Pub. 05/20/2014; 25 U.S.C. §§ 1407-1408 - Indian Tribal Judgment Funds Use or Distribution Act

<https://www.hudexchange.info/faqs/4083/a-native-american-tribal-council-resolution-distributes-some-monies/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Are benefits accrued under the Plan to Attain Self-Sufficiency (PASS) excluded from income?

Yes, annual income does not include benefits that are set aside for use under PASS. Cross References: Excluded Income, exclusions, PASS References: 24 CFR 5.609(c)(8)(ii)

<https://www.hudexchange.info/faqs/4082/are-benefits-accrued-under-the-plan-to-attain-self-sufficiency-pass/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Is the income of non-familial household members (e.g., foster children, foster adults, and live-in aides) counted when calculating annual income?

No. HUD makes a distinction between household members (people authorized to live in the assisted unit) and family members. Foster adults, foster children, and live-in aides are considered non-familial household members. Only the income of family members is included when calculating housing assistance. Cross References: foster, foster income, foster wages References: 24 CFR 5.609(a)(1); Form HUD 50058 Instruction Booklet

<https://www.hudexchange.info/faqs/4081/is-the-income-of-non-familial-household-members-e-g-foster-children/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH :
Income Determination : Income Inclusions and Exclusions / /

Q: Are Public Housing Agencies (PHAs) required to verify, record, and report excluded

income?

PHAs must distinguish between income which is fully excluded, meaning that no income from that source is counted in adjusted income, and income which is partially excluded, meaning that some portion of it is required to be included in adjusted income. Fully excluded income, such as from the Supplemental Nutrition Assistance Program (SNAP) or the income of a live-in aide, does not need to be verified by the PHA. The family's self-certification on application or reexamination forms is sufficient, unless the PHA decides there is a need to verify the income in question is, in fact, fully excludable. Fully excluded income does not need to be reported on the Form HUD 50058. Partially excluded income, such as Adoption Assistance and the wages of full-time students aged 18 or older (excluding the head of household or spouse), must be fully verified. Partially excluded income must be recorded on the Form HUD 50058. Cross References: verification, excluded References: Notice PIH 2013-04 (Section 4)

<https://www.hudexchange.info/faqs/4080/are-public-housing-agencies-phas-required-to-verify-record-and-report/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions PH : Income Determination : Income Inclusions and Exclusions / /

Q: Are applicants with felonies banned from Public Housing or any other housing funded by HUD? Do the Public Housing Agencies (PHAs), State, or landlords have any discretion in the process that could bar certain felonies?

HUD does not have a blanket policy that prohibits persons with felonies from being an applicant or participant in the Public Housing program or Housing Choice Voucher program. HUD statute and regulations mandate explicit bans on admission or occupancy in both programs in two instances: Individuals convicted of manufacturing/producing methamphetamine on the premises of federally assisted housing Sex offenders subject to a lifetime registration requirement under a state sex offender registration program The PHA is also required to establish standards that prohibit the admission of persons who abuse or show a pattern of abuse of alcohol if the PHA has reasonable cause to believe it may threaten the health, safety, or right to peaceful enjoyment of the premises by the other residents. The PHA must establish standards that prohibit admission of persons who are currently engaging in illegal drug use. Those standards must also prohibit admission when the PHA has reasonable cause to believe a person's pattern of illegal drug use threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. PHAs must also prohibit admission of an applicant for 3 years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, PHAs retain discretion to consider the circumstances and may admit households if it is determined that the evicted household member who engaged in such activity has successfully completed a drug rehabilitation program or that the circumstances which led to eviction no longer exist. Otherwise, PHAs have broad discretion to set their own policies when considering whether to admit applicants with criminal backgrounds, including those with felony convictions. A PHA may not base a determination not to admit an applicant solely on a record of arrest, though the conduct underlying an arrest may be relevant for admissions decisions. Cross References: Public Housing, Felon, Eligibility, Criminal, Background, Banned, Lifetime Ban, Banning, Continued Eligibility, HCV References: 24 CFR 960.203(c)(3); 24 CFR 960.204; 24 CFR 982.552(c); 24 CFR 982.553; Notice PIH 2015-19

<https://www.hudexchange.info/faqs/4078/are-applicants-with-felonies-banned-from-public-housing-or-any-other/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening PH : Eligibility Determination and Denial of Assistance : Background Screening / /

Q: May a Public Housing Agency (PHA) pass on the charge for a criminal background check to an applicant or any person who is being added to an existing household?

No. PHAs are prohibited from passing along to tenants or applicants any expenses associated with a criminal background check, credit check, or third-party income verification. In this context, an individual being added to an existing household is considered an applicant. Cross References: application fee, background check, charge References: 24 CFR 5.903(d)(3); Notice PIH 2009-39

<https://www.hudexchange.info/faqs/4077/may-a-pha-pass-on-the-charge-for-a-criminal-background/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening PH : Eligibility Determination and Denial of Assistance : Background Screening / /

Q: The program applicant has signed a declaration that they are a US citizen but doesn't have a birth certificate. The applicant also doesn't have a current passport but is providing an expired passport. Can we admit this person as a citizen?

Yes, if the Public Housing Agency (PHA)'s individual policies allow it. HUD does not require additional documents to verify citizenship other than a signed Declaration of Section 214 status. If the PHA's Admissions and Continued Occupancy Policy (ACOP) or Administrative Plan requires additional proof, the applicant will need to provide these to the PHA. Cross References: citizenship proof; birth certificate, passport References: 24 CFR 5.508(b)(1) and (c); HCV Guidebook Chapter 1 "Eligibility Determination and Denial of Assistance" (Section 7)

<https://www.hudexchange.info/faqs/4076/the-program-applicant-has-signed-a-declaration-that-they-a-re-a-us-citizen/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: A family provided I-766 Employment Authorization Documents, marked C08 (Asylum Applicant). The Public Housing Agency (PHA) verified with U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements (SAVE). Is the family eligible for assistance? Is SAVE sufficient to determine a non-citizen applicant's eligibility to receive assistance?

Asylum Applicants with official status as indicated by the C08 notation on the I-766 document are eligible for assistance. PHAs must verify the eligibility of non-citizens via the SAVE system. If the eligibility of at least one individual is determined to be in satisfactory immigration status, and no other member of the family has been deemed ineligible to receive financial assistance, then pursuant to section 214(b), the family's assistance will be prorated. PHAs should reach out to the Department of Homeland Security (DHS) with any questions when assessing the meaning of any DHS codes. The INS SAVE system is sufficient to determine a non-citizen applicant's eligibility to receive assistance. Cross References: Public Housing, HCV, Mixed-Family, Mixed Family, Immigration, Immigrant, Asylum, I-766, eligibility References: 24 CFR 5.512(c); 42 U.S.C. § 1436a(a)(3) and (b)(2); Notice PIH 2016-05 (Attachment H)

<https://www.hudexchange.info/faqs/4075/a-family-provided-i-766-employment-authorization-documents-marked-c08/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: How is assistance calculated when the family includes one or more ineligible non-citizens?

Although families may contain non-citizens who do not claim eligible status, assistance is limited to citizens and eligible non-citizens. The annual income of all family members, regardless of their declared eligibility status, is included in the family's annual income. The dollar amount of the prorated Housing Assistance Payments (HAP) cannot be known until a unit is selected. For families with ineligible noncitizens, assistance is prorated by the following methods: For Housing Choice Voucher programs: Divide the number of eligible family members by the total number in the family to find the proration factor and multiply the HAP to be paid by this factor. For Public Housing: After determining the family maximum subsidy (applicable flat rent minus the Total Tenant Payment for the family), divide the maximum subsidy by the number of all persons in the family to determine the member maximum subsidy. Multiply the member maximum by the number of eligible family members to find the eligible subsidy amount. Cross References: prorate, assistance prorate, noncitizen References: 24 CFR 5.504(b); 24 CFR 5.506(b)(2); 24 CFR 5.520(c)

<https://www.hudexchange.info/faqs/4072/how-is-assistance-calculated-when-the-family-includes-one-or-more/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Can a Public Housing Agency (PHA) offer assistance to a person who has Deferred Action for Childhood Arrivals (DACA) status in the U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements (SAVE) system?

A PHA cannot provide housing assistance to someone with DACA status, although it can provide prorated assistance to a “mixed” family which includes someone with DACA status as one of the non-eligible members who are excluded by the proration. Cross References: Public Housing, DACA, Deferred Action for Childhood Arrivals, SAVE, Mixed-Family, Mixed Family, Immigration, Immigrant, Eligibility, HCV References: 42 U.S.C. § 1436a; 24 CFR 5.516; 24 CFR 5.518

<https://www.hudexchange.info/faqs/4071/can-a-public-housing-agency-pha-offer-assistance-to-a-person-who-has/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: What is “Temporary Protected Status” with respect to immigrants from hostile countries? For purposes of applying for housing assistance, are they considered as having Eligible Immigrant status? If so, can they be verified in the U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements (USCIS SAVE) system?

Temporary Protective Status (TPS) allows non-citizens to live and work in the U.S. for a specific time period. It does not necessarily lead to lawful permanent residency. Individuals with TPS status are not qualified non-citizens, and therefore they are ineligible for housing assistance. Cross References: Public Housing, HCV, Protected, Eligibility, Temporary Protected, Immigration, Immigrants, Eligible Immigrants References: 24 CFR 5.500; 24 CFR 5.508 (a),(b)

<https://www.hudexchange.info/faqs/4070/what-is-temporary-protected-status-with-respect-to-immigrants-from/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Can a Public Housing Agency (PHA) bypass the U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements (USCIS SAVE) verification process for eligible

immigrants if they do not have the I-94 documentation?

No. PHAs must verify the immigration status of any non-citizen applying for housing assistance, or who is going to be added to the voucher participant's household. Without verifying eligible immigration status, the PHA runs the risk of violating Section 214. The person applying or being added to the household must provide the appropriate documentation to allow the PHA to verify their status. The SAVE system is the primary method of verification. If eligibility cannot be confirmed through SAVE, the PHA must submit a request to the USCIS for secondary verification (manual records search by USCIS) within 10 days of receiving the results of the attempt to verify through SAVE. Cross References: SAVE; immigrant References: 24 CFR 5.508(b)(2); 24 CFR 5.512(c) and (d)

<https://www.hudexchange.info/faqs/4069/can-a-public-housing-agency-pha-bypass-the-u-s-citizenship/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Can the head of household be a noncitizen who does not contend eligible immigration status when there are eligible dependents?

Yes. As long as one family member is eligible for assistance, the family is eligible for assistance on a pro-rated basis; the head of household does not need to be one of the members eligible for assistance. Cross References: mixed family; non-citizen References: 24 CFR 5.504(b); 24 CFR 5.506(b)(2); 24 CFR 5.520

<https://www.hudexchange.info/faqs/4068/can-the-head-of-household-be-a-noncitizen-who-does-not-contend-eligible/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Is a person with a U Visa or U nonimmigrant status (which applies to victims of criminal activity who have suffered abuse and are helpful to law enforcement) an eligible non-citizen or an ineligible non-citizen?

A person with U nonimmigrant status is not eligible for assistance. Cross References: U immigrant; U Visa; non-citizen References: 24 CFR 5.506(a)(2); 42 U.S.C. § 1436a

<https://www.hudexchange.info/faqs/4067/is-a-person-with-a-u-visa-or-u-nonimmigrant-status-which-a>

pplies/

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Do applicants have to sign the Declaration 214 form if the applicant has provided proof of citizenship, such as a birth certificate or a copy of their passport?

Yes, applicants presenting proof of citizenship are still required to provide a written declaration of citizenship status, signed by the individual (or, in the case of an individual who is a child, by another on the individual's behalf). Cross References: declaration 214; citizenship, immigration, birth certificate; passport References: 24 CFR 5.508(c)

<https://www.hudexchange.info/faqs/4066/do-applicants-have-to-sign-the-declaration-214-form-if-the-applicant-has/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Citizenship Status PH : Eligibility Determination and Denial of Assistance : Citizenship Status / /

Q: Can a participant's unassisted relative become their live-in aide?

Yes, a person may have a live-in aide that is a relative. A PHA should consider a person a live-in aide if the person: Is determined to be essential to the care and well-being of a family member with a disability Is not obligated to support the family member Would not be living in the unit except to provide the supportive services A live-in aide has no rights to the unit or voucher. At a minimum, the live-in aide is screened for criminal background and other conditions as set forth in the Admissions and Continued Occupancy Policy (ACOP) or Administrative Plan. Cross References: Live-in Aide, Reasonable Accommodation, Fair Housing References: 24 CFR 5.403; 24 CFR 966.4(d)(3)(ii); 24 CFR 982.316(a)

<https://www.hudexchange.info/faqs/4065/can-a-participant-unassisted-relative-become-their-live-in-aide/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: If a participant has guardianship over an individual who is 18 years of age or older, but is considered a minor in the participant's culture, can the individual be considered a dependent?

No. Culturally-specific definitions of adulthood have no legal bearing and cannot be used to supersede a HUD regulation. A dependent is defined as a member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, is a person with a disability, or is a full-time student. Cross References: dependent References: 24 CFR 5.603(b)

<https://www.hudexchange.info/faqs/4064/if-a-participant-has-guardianship-over-an-individual-who-is-18-years-of-age/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: Are non-familial adult household members (e.g., foster adults and live-in aides) required to undergo criminal and sex offender screening? What happens if one of these household members commits a criminal offense after being added to an assisted household?

Non-familial adult household members, such as foster adults and live-in aides, are required to undergo criminal and sex offender screening and must therefore sign any associated consent and release forms for this purpose. Although these individuals are not defined as family members, they are members of the household and are subject to the same prohibitions against criminal activity as family members. If a non-familial household member commits a criminal offense after being added to the household, the Public Housing Agency (PHA) may choose to require that the offending member be removed from the household, rather than terminate assistance for the entire household. Cross References: foster members, criminal screening, criminal background, sex offender, consent form References: 24 CFR 960.204(a); 24 CFR 966.4(l)(2)(iii); 24 CFR 982.552(b)(1) and (c)(2); 24 CFR 982.553; 24 CFR 982.551(l)

<https://www.hudexchange.info/faqs/4063/are-non-familial-adult-household-members-e-g-foster-adults-and-live-in/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: Are non-familial adult household members (e.g., foster adults and live-in aides) required to sign the Authorization for the Release of Information (Form HUD-9886)?

No. Non-familial adult household members are not required to authorize verification of income and their income is excluded when calculating the family's rent portion. Although these individuals are considered household members, they are not family members, and annual income only includes amounts received by the family per 24 CFR 5.609(a). Furthermore, the Code of Federal Regulations only requires Public Housing Agencies (PHAs) to deny assistance if a family member fails to sign and submit consent forms. Cross References: foster members References: 42 U.S.C. § 3544(b)(4); 24 CFR 5.230(a)-(c); 24 CFR 5.609(a); 24 CFR 960.259(b)(1); 24 CFR 982.552(b)(3)

<https://www.hudexchange.info/faqs/4062/are-non-familial-adult-household-members-e-g-foster-adults-and-live/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: Are applicant families required to provide Social Security number verification for non-familial household members (e.g., foster children, foster adults, and live-in aides)?

Yes. Complete and accurate Social Security numbers must be provided for each member of an applicant's household. Although foster children, foster adults, and live-in aides are not considered family members, they are considered household members, so their Social Security numbers must be disclosed and verified. Cross References: foster, social security number, SSN References: 24 CFR 5.216(b); Notice PIH 2018-24 (Section 5)

<https://www.hudexchange.info/faqs/4061/are-applicant-families-required-to-provide-social-security-number/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements PH : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements / /

Q: When a Public Housing Agency (PHA) plans to terminate the tenant's assistance for failure to correct tenant-caused deficiencies and the owner has also begun eviction proceedings, should the PHA continue to pay the owner Housing Assistance Payments (HAP) until the eviction is complete and the PHA terminates the HAP Contract?

In the case of tenant-caused deficiencies, if the tenant fails to make any and all necessary Housing Quality Standards (HQS) corrections within the required time and any reasonable PHA-approved extensions, the PHA should notify the owner of their intention to terminate the tenant, which can serve to alert the owner to begin eviction proceedings. However, the PHA can continue to pay the

owner HAP until the eviction is final and/or the HAP contract is terminated. Cross References: tenant caused violations, termination References: 24 982.404(b)(3); Form HUD 52641 (HAP Contract)

<https://www.hudexchange.info/faqs/4059/when-a-pha-plans-to-terminate-the-tenants/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Must a Housing Quality Standards (HQS) inspector revisit a unit that has a failed due to utilities being shut off within 24 hours if that means returning on a weekend or holiday when the utility company is not receiving payments?

Any life-threatening violations cited by an HQS inspector during an inspection must be corrected within 24 hours, regardless of whether they are owner or tenant caused. HUD regulations state that a Public Housing Agency (PHA) must “verify” that all HQS deficiencies have been corrected. However, the regulations do not require that the PHA make such a verification within 24 hours. Because HUD regulations call for “prompt and vigorous action” by the PHA in both owner and tenant caused violations, it is expected that the PHA will verify repairs as soon as reasonably possible. Cross References: utilities; life threatening References: 24 CFR 982.404(a)(3); 24 CFR 982.404(b)(2)

<https://www.hudexchange.info/faqs/4058/must-a-housing-quality-standards-hqs-inspector-revisit-a-unit-that-has-a->

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can a Public Housing Agency (PHA) modify the Housing Quality Standards (HQS) inspection element for Lead Based Paint?

No, a PHA may not modify Lead Based Paint requirements as this is a Performance Requirement and is therefore not subject to any modification. Cross References: lead paint References: 24 CFR 982.401(a)(3); 24 CFR 982.401(j)

<https://www.hudexchange.info/faqs/4057/can-a-public-housing-agency-modify-the-housing-quality-standards/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Will HUD approve a variation to the Housing Quality Standards (HQS) requirement that disqualifies units with unvented fuel-burning heaters if the heaters are fueled with natural or propane gas and meet local code requirements?

If the Public Housing Agency (PHA) believes that the requirement unduly restricts the availability of units, the PHA can apply to the Field Office for an acceptability criteria variation. The Field Office will assess based upon the climate, common usage, and effect on the availability of housing. Cross References: local code, listed heater, fuel gas, heating References: 24 CFR 982.401(a)(4)(ii)-(iii); 24 CFR 982.401(e)(2)

<https://www.hudexchange.info/faqs/4056/will-hud-approve-a-variation-to-the-hqs-requirement/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can a Public Housing Agency (PHA) maintain its Housing Quality Standards (HQS) Inspection Reports in electronic format, or are they required to be in hard copy/paper format?

PHAs can maintain their HQS Inspection Reports by either hardcopy/paper or electronic format. With either means of record maintenance, the PHA must ensure that the records are secure and private. PHAs must maintain records in a manner that permits a speedy and effective audit. Cross References: electronic files, electronic format; scan References: 24 CFR 982.158; Notice PIH 2004-01 (Verification Guidance Section III)

<https://www.hudexchange.info/faqs/4055/can-a-public-housing-agency-maintain-its-housing-quality-standards/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: How have other Public Housing Agencies (PHAs) implemented using photographs to document inspections? What types of defects, documentation, and storage of documentation is being used or considered?

Notice PIH 2013-17 lays out steps for using photos as part of an Housing Quality Standards (HQS) inspection. Section 3 of the Notice says that photos can be used to document the “overall quality” of the unit, or to capture specific defects (inspectable items) on the 52580 or 52580A. It is possible for PHAs to use “overall quality” photos to negotiate a reasonable rent for a Housing Choice Voucher (HCV) participant. In addition, PHAs can match specific defect photos against photos submitted by

owners to ensure that proper repairs have been made. Photos of specific defects should include things that can easily and clearly be identified, such as electrical hazards or tangible items that pose a safety risk to unit occupants. Photos should be kept in an HCV participant's file, attached to the corresponding HQS inspection report. If a PHA uses electronic files, it should create a way to upload photos and attach them to the electronic HQS inspection report. Cross References: photographs
References: Notice PIH 2013-17

<https://www.hudexchange.info/faqs/4054/how-have-other-public-housing-agencies-implemented-using-photographs/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can a Public Housing Agency (PHA) charge a landlord a fee for a follow-up Housing Quality Standards (HQS) inspection if the required repairs from the original inspection have not been made?

Yes. The PHA may establish a reasonable fee to owners for a reinspection if an owner notifies the PHA that a repair has been made or the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing was not corrected. The owner may not pass this fee along to the family. The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. Fees collected under this paragraph will be included in a PHA's administrative fee reserve and may be used only for activities related to the provision of Section 8 Tenant-Based Rental Assistance. PHAs also have the option to allow alternative methods for verifying that HQS deficiencies have been cured, which do not require a physical reinspection. Photographic verification of repairs can be sufficient evidence to pass reinspection. Cross References: inspection fee; reinspection fee References: 24 CFR 982.405(f); Notice PIH 2013-17; Notice PIH 2016-05 (Attachment L)

<https://www.hudexchange.info/faqs/4053/can-a-public-housing-agency-pha-charge-a-landlord-a-fee-for-a-follow-up/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can HUD provide guidance on the issue of mold present within Housing Choice Voucher (HCV) assisted units?

The regulation states that every HCV assisted unit should be "free of pollutants in the air at levels that threaten the health of the occupants." The Form 52580-A advises inspectors to consult the local health and safety department as to what level of pollutants present in the air inside the unit could be

considered dangerous. These two sources can be applied to mold. HUD has posted guidance on mold and mildew on their website. This guidance includes information on allergies and asthma. In addition, in 2009, HUD extended its 2007 notice (Notice PIH 2007-12 (HA)), which gives guidance on handling the presence of mold in the context of infestation management. Cross References: mold, indoor pollutants References: 24 CFR 982.401(h); Notice PIH 2007-12; Form HUD 52580 – A; HUD Resources for Mold Remediation and Prevention

<https://www.hudexchange.info/faqs/4052/can-hud-provide-guidance-on-the-issue-of-mold-present-within-housing-choice/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Is there any exception to the requirement that units must be Housing Quality Standards (HQS) compliant prior to assistance being paid, or during the term of the Housing Assistance Payments (HAP) contract, when the cause of the damage is out of the hands of the owners/managers?

There are no exceptions to HQS requirements which relate to deficiencies caused by events out of the owner's control. A unit must pass HQS before housing assistance may be paid, without exception. Non-life-threatening violations must be corrected within 30 days; however, Public Housing Agencies (PHAs), can allow for reasonable extensions. All life-threatening violations must be repaired within 24 hours of the inspection which identified them. Cross References: out of hands, act of God, disaster, unable to repair References: 24 CFR 982.404(a)(3)

<https://www.hudexchange.info/faqs/4051/is-there-any-exception-to-the-requirement-that-units-must-be-hqs/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Do Housing Quality Standards (HQS) inspections require smoke detectors in every bedroom?

No. According to the 24 CFR 982.401(n)(1), smoke detectors are to be in proper operating condition "on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics." They are not required in each individual bedroom. In addition, "smoke detectors must be installed in accordance with and meet the requirements of the NFPA 74 (or its successor standards)." Cross References: smoke detectors References: 24 CFR 982.401(n)(1); National Fire Protection Association Standard (NFPA) 74

<https://www.hudexchange.info/faqs/4050/do-housing-quality-standards-hqs-inspections-require-smo>

ke-detectors/

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Who is responsible for eradicating bedbugs in units: the tenant or the landlord? Is this a Housing Quality Standards (HQS) violation?

HQS regulations require that the dwelling unit be free from rodent and vermin infestation; bedbugs should be considered an example of vermin, and a unit found to have bedbugs will fail the HQS inspection (see Notice PIH 2012-17 for details on appropriate inspection and remediation protocols for bedbugs). It is both the tenant and the owner's responsibility to maintain the unit to HQS. Generally, the owner will be considered responsible for addressing infestations, although the tenant is responsible for helping maintain the unit in a sanitary condition, and if failure to do so has contributed to infestation the tenant may be held responsible. However, bedbugs are distinct from other typical examples of vermin in that they are drawn by the presence of people and convenient hiding spaces, and not by food waste or other garbage. Cross References: bedbugs, infestation, vermin, tenant-caused, tenant responsibility, owner responsibility References: 24 CFR 982.401(m); Notice PIH 2012-17

<https://www.hudexchange.info/faqs/4049/who-is-responsible-for-eradicating-bedbugs-in-units/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can a Housing Quality Standards (HQS) inspector fail a unit due to unprotected heights?

According to the Housing Inspection Manual, in some circumstances for site and neighborhood safety the inspector must use their judgment in determining if a hazard is present. In coming to a conclusion, the inspector may consider family composition and other factors, including the presence of small children. If the inspector feels, in their good judgment, that an unprotected height could present a hazard to a child or an adult, the unit should be failed. Cross References: heights, unprotected heights, railing References: 24 CFR 982.401(g); 24 CFR 982.401(l); HUD Housing Inspection Manual (Sections 6.2, 8.6, 8.10)

<https://www.hudexchange.info/faqs/4048/can-a-hqs-inspector-fail-a-unit-due-to-unprotected/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Can a Public Housing Agency (PHA) fail a unit because it is next to a building that has burned down? If so, is there recourse for a family that doesn't want to or can't move without hardship?

Yes, although the specifics involve the judgment of the inspector and may require consulting with other local entities. The Housing Inspection Manual lists examples of neighborhood conditions that would "seriously and continuously endanger the health or safety of the residents" and includes other buildings adjacent to (or near) the property that pose dangers such as a risk of structural collapse. If the inspector has made an assessment that, due to the fire, the neighboring structure is at risk of collapse, the unit can fail Housing Quality Standards (HQS). However, in making this determination, the inspector should consult with local government because there may be need to demolish the dangerous structure. If there is no risk of collapse in the inspector's judgment, there may be no rationale for failing the unit. Additionally, the Manual states that family composition can be taken into consideration; e.g., a family with children may be considered at higher risk as the children could play in or around the unsafe neighboring structure. Alternatively, if the family is only composed of adults, some marginal conditions may not necessarily constitute a failure. If there is no risk of collapse, a burnt-out house may be one of these marginal conditions where the PHA would take into account the family composition and could allow the unit to pass HQS. But that leniency does not apply to a building at risk of structural collapse. Finally, the Manual points out that a good rule of thumb is if market rate families are living in the area, then it is probably passable; this would only apply here if the property is a multi-unit building or there is a building on the other side. If the unit is determined to fail HQS due to neighborhood concerns which cannot reasonably be resolved within an abatement period, the family will be required to move as they cannot continue to occupy a unit which will not pass HQS. Cross References: fire, burnt-out, collapse References: 24 CFR 982.401(l)(2); HUD Housing Inspection Manual (Section 8.10)

<https://www.hudexchange.info/faqs/4047/can-a-pha-fail-a-unit-because-it-is-next-to-a-burned-building/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: If a new program participant wants to live in a unit that previously passed an Housing Quality Standards (HQS) inspection for another tenant, or another State or local inspection, is the Public Housing Agency (PHA) required to perform a new HQS inspection on that unit?

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) allows PHAs to possibly approve an assisted tenancy before the unit passes inspection under the "Alternative Inspection Provision." This strictly applies to tenancy approval and does not permit PHAs to disburse Housing Assistance Payments (HAP) before the unit passes initial inspection. When applicable, the provision allows retroactive payments to the effective date of the HAP contract after the unit has passed inspection. HOTMA requirements for the alternative inspection are as follows: The PHA must be able to obtain the results of the alternative inspection. If the alternative inspection method uses sampling, the unit in question must be included in the universe of units from which the sample was drawn. A PHA may rely upon inspections of housing assisted under the HOME Investment

Partnerships program or housing financed using Low Income Housing Tax Credits, or inspections performed by HUD; these methods do not require HUD approval, but the PHA must notify HUD of its intentions and amend its Housing Choice Voucher (HCV) Administrative Plan to reflect this policy. Any other alternative inspection method must be approved by HUD's Real Estate Assessment Center. The unit must have passed the qualifying alternative inspection within the previous 24 months. The PHA is still required to conduct its own HQS inspection within 15 days of receiving the RFTA, even if this 15-day timeline does not typically apply to the PHA's regular voucher program rules. For additional details, see Notice PIH 2017-20. Cross References: alternate inspection, HOTMA References: 24 CFR 982.305(a)(2); Notice PIH 2017-20 (Section 5)

<https://www.hudexchange.info/faqs/4046/if-a-new-program-participant-wants-to-live-in-a-unit-that-previously-passed/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: What are the Housing Quality Standards (HQS) requirements for exterior paint?

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) identifies deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age as a life-threatening condition which would require remediation prior to Housing Assistance Payments (HAP) contract execution. Paint surfaces are not required to be inspected if: The unit was built January 1, 1978 or after. No child under age six will occupy. The unit is a 0-Bedroom. The unit is an elderly or handicapped unit with no children under age six expected to be on the lease. The unit has been certified lead-based paint free by a certified lead-based paint inspector. Units built prior to 1978 that are expected to be occupied by a child or children under age 6 are subject to an interior and exterior visual paint assessment, unless the unit has been certified lead-based paint free by a certified lead-based paint inspector. Cross References: exterior paint, lead paint, HOTMA References: Notice PIH 2017-20 (Section 4); 24 CFR Part 35 Subpart M

<https://www.hudexchange.info/faqs/4045/what-are-the-hqs-requirements-for-exterior-paint/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: Please clarify Housing Quality Standard (HQS) requirements before Public Housing Agency (PHA) execution of the HAP contract.

Regulations require that a unit pass HQS inspection prior to the execution of the HAP contract. Page 16 of the housing inspection manual states that there are no conditional approvals prior to the execution of the HAP contract. However, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) allows PHAs to approve an assisted tenancy and begin paying Housing Assistance

Payments (HAP) on a unit that fails to meet HQS, provided the deficiencies are not life-threatening. This provision is optional and can be applied to all or a portion of the PHA's tenant-based and project-based portfolio. PHAs that choose to implement this option must amend their Housing Choice Voucher (HCV) Administrative Plans as indicated in Notice PIH 2017-20, inform owners and families of the new policy and procedure, and notify HUD. Cross References: HOTMA References: Notice PIH 2017-20 (Section 4); 24 CFR Part 35 Subpart M

<https://www.hudexchange.info/faqs/4044/please-clarify-housing-quality-standard-requirements-before-public/>

TAGS: HCV : Uncategorized : Housing Quality Standards (HQS) / /

Q: If the head of household voluntarily or involuntarily leaves the unit, does the Public Housing Agency (PHA) have to provide a remaining adult member of the household with the voucher?

The PHA cannot arbitrarily terminate the assistance of all family members after the head of household leaves the unit, voluntarily or involuntarily. The PHA's Administrative Plan must define a policy for deciding who can remain in the unit if the family breaks up. Generally, the only reason the remaining members of the tenant family would not continue to receive assistance is if there were grounds to terminate their assistance due to program violations or ineligibility. Otherwise, under typical circumstances the remaining household members would continue with the voucher. If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. In the case of divorce, the PHA has to decide which family member(s) would retain assistance, pursuant to the policies in the PHA's Administrative Plan. Cross References: inherit, family break up, surviving member References: 24 CFR 982.315

<https://www.hudexchange.info/faqs/4043/if-the-head-of-household-voluntarily-or-involuntarily-leaves-the-unit-does/>

TAGS: HCV : Uncategorized : General Administration / /

Q: Does HUD have rules on how quickly a new Public Housing Agency (PHA) must file an Administrative Plan?

HUD does not have a timeline for developing Administrative Plans, although one must be in place to administer the program. Cross References: Administrative Plan References: 24 CFR 982.54(a); 24 CFR 982.54(b)

<https://www.hudexchange.info/faqs/4042/does-hud-have-rules-on-how-quickly-a-new-pha-file-plan/>

TAGS: HCV : Uncategorized : General Administration / /

Q: In a situation where two households are merging, each with an existing live-in-aide, must each live-in-aide receive their own bedroom for the purpose of determining the family's voucher size?

Public Housing Agencies (PHAs) have discretion to determine how their subsidy standards apply in this circumstance. PHAs are encouraged to review and approve reasonable accommodation requests and the relative housing need(s) of their tenants according to the regulations which implement, and the spirit of, the Fair Housing Amendments Act, Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act. Cross References: subsidy standards; live-in aide References: 24 CFR 8.33; 24 CFR 100.204; 24 CFR 982.402(b)(6)-(8); 28 CFR 35.130(b)(7)

<https://www.hudexchange.info/faqs/4040/in-a-situation-where-two-households-are-merging-each-with-an-existing/>

TAGS: HCV : Uncategorized : General Administration / /

Q: What obligations do Public Housing Agencies (PHAs) have to inform residents of a landlord's sex offenses, whether lifetime sex offender registration or a lesser charge? We do not allow residents on the program if they are on the lifetime sex offender registry; does this apply to landlords as well?

HUD only mandates that applicants subject to a lifetime registration requirement in a state sex offender registry program must be denied; this mandate does not apply to landlords on the program, regardless of the length of the registration requirement. PHAs may establish standards that bar landlords who have "engaged in any drug-related criminal activity or any violent criminal activity" from participating in the program. This action is at the administrative discretion of the PHA. Cross References: sex offender, landlord crime References: 24 CFR 982.306(c)(3)

<https://www.hudexchange.info/faqs/4039/what-obligations-do-phas-have-to-inform-residents-landlord/>

TAGS: HCV : Uncategorized : General Administration / /

Q: Is there any way for a Public Housing Agency (PHA) to provide funding for security deposits?

PHAs may use their unrestricted net position (UNP) (formerly known as unrestricted reserves) for other housing purposes permitted by State and local law. The PHA's Board of Commissioners or other authorized officials must establish the maximum amount that may be charged against the UNP without specific approval. PHAs can also develop partnerships with organizations in their community which may be able to provide assistance with security deposits. Cross References: security deposit References: 24 CFR 982.155(b)

<https://www.hudexchange.info/faqs/4038/is-there-any-way-for-a-public-housing-agency-pha-to-provide-funding/>

TAGS: HCV : Uncategorized : General Administration / /

Q: Is there anything prohibiting a Public Housing Agency (PHA) from establishing subsidy standards that provide bedrooms for children who are not in the household full-time or even half-time, but are in the household for regularly scheduled periods throughout the year due to child custody arrangements?

The regulations require the PHA to establish subsidy standards that provide for the smallest number of bedrooms needed to house a family without overcrowding. The regulations also allow a PHA to grant exceptions to their subsidy standards if the need is justified. However, the PHA should ensure the policy is reasonable and consistent with the regulations. Cross References: child custody, subsidy standards References: 24 CFR 982.402(a); 24 CFR 982.402(b)

<https://www.hudexchange.info/faqs/4037/is-there-anything-prohibiting-a-pha-from-establishing/>

TAGS: HCV : Uncategorized : General Administration / /

Q: If a family member temporarily moves out of the assisted unit because they went away to college, are they still considered part of the assisted household?

This is at the Public Housing Agency (PHA)'s discretion. The policies in the PHA's Administrative Plan must address absence of the family (or family member) from the unit, as well as the effect of such absence on subsidy standards. Cross References: absence, temporary, away, college; subsidy standards References: 24 CFR 982.54(d)(4)(10)

<https://www.hudexchange.info/faqs/4036/if-a-family-member-temporarily-moves-out-of-the-assisted-unit-because-they/>

TAGS: HCV : Uncategorized : General Administration / /

Q: Are Public Housing Agencies (PHAs) required to use HUD-issued, OMB-approved forms for the Housing Choice Voucher (HCV) program, or can they create their own forms?

PHAs are required to use HUD-issued, OMB-approved forms for the Housing Assistance Payments (HAP) and Tenancy Addendum. Other forms and contracts must be verbatim in the form required by HUD. All additions and modifications of required contracts or other forms must be approved by HUD headquarters. Cross References: HUD forms References: 24 CFR 982.162

<https://www.hudexchange.info/faqs/4035/are-public-housing-agencies-required-to-use-hud-issued-omb-approved/>

TAGS: HCV : Uncategorized : General Administration / /

Q: What are the record retention policies for active participants? Can data be purged every three years?

For active participants, Public Housing Agencies (PHAs) must retain a copy of the executed lease, Housing Assistance Payments (HAP) Contract, and application during the term of each assisted lease, and for three years minimum thereafter. For Enterprise Income Verification (EIV) printouts, the PHA's record retention policies will determine the length of time, but agencies are authorized to retain these records for the duration of tenancy, and for up to three years from termination of assistance. At minimum, PHAs must retain the last three years' worth of HUD-50058 forms, and supporting documentation, during the term of each assisted lease. All file data for inactive participants must be retained for at least three years, following the family's departure from the Housing Choice Voucher (HCV) program. Unlike other records, however, Social Security Number (SSN) documentation may be destroyed once an individual's identify verification status is classified as "Verified" by EIV. As always, PHAs must be cautious to ensure compliance with all applicable State and local requirements. Cross References: records, retention, file data, retain References: 24 CFR 982.158(e); Notice PIH 2018-18 (Section 17); 24 CFR 908.101; Notice PIH 2018-14 (Section 8)

<https://www.hudexchange.info/faqs/4034/what-are-the-record-retention-policies-for-active-participants/>

Q: If a Public Housing Agency (PHA) chooses to increase the minimum tenant rent, how much advance notice should be given to tenants before implementation?

This is dependent upon the PHA's policy. HUD does not specify how much advance notice must be given before a PHA's minimum rent is increased, although reasonable notice should be given to those affected by the change before the change takes effect. Per Notice PIH 2011-28, the change may be effective immediately (i.e., once the change is adopted, it can be applied with an interim reexamination), rather than at the next annual recertification. Cross References: minimum rent References: 24 CFR 5.630; Notice PIH 2011-28 (Section 4.g)

<https://www.hudexchange.info/faqs/4033/if-a-public-housing-agency-chooses-to-increase-the-minimum-tenant-rent/>

Q: In what ways can a Public Housing Agency (PHA) reduce costs?

HUD has provided several recommendations that PHAs can take in order to reduce costs in Notice PIH 2011-28. Cost-savings measures are optional and have varying degrees of impact on applicant and participant families. The impact of each action should be considered prior to implementation. If an action adversely impacts families on the program, particularly their rent burden, HUD strongly recommends that the PHA first consider other options that may have less impact (including the use of administrative fee reserves to pay for Housing Assistance Payments (HAP) expenses). HUD also issued Notice PIH 2016-05, which identifies where program administration may be streamlined, which may reduce costs as well. Cross References: cost, reduce, cost saving References: Notice PIH 2011-28 (Section 4); Notice PIH 2012-15; Notice PIH 2016-05

<https://www.hudexchange.info/faqs/4032/in-what-ways-can-a-public-housing-agency-pha-reduce-costs/>

Q: Can a Public Housing Agency (PHA) require prospective and existing landlords to attend trainings, workshops, or seminars while charging a fee?

PHAs may not charge owner fees for events or trainings provided by the PHA (even if the event is in collaboration with another entity). Owner outreach expenses must be covered by approved administrative fees specified in the PHA's fiscal year budget. Cross References: seminar, workshop
References: 24 CFR 982.152(a)(2)

<https://www.hudexchange.info/faqs/4031/can-a-pha-require-prospective-and-existing-landlords-attend/>

TAGS: HCV : Uncategorized : Owner Outreach / /

Q: If a Public Housing Agency (PHA) fails to submit its Section 8 Management Assessment Program (SEMAP) certification, does the field office still need to complete its SEMAP Assessment within 180 days?

Yes. The on-site assessment must still be completed by the field office within 180 days unless one of the following exceptions apply: A management review was conducted within one year and corrective actions are in place to solve the deficiencies; or, Other information indicates that the deficiencies are minor and can be corrected remotely. If a PHA submits a late SEMAP certification, the second scenario may apply. Cross References: SEMAP, troubled References: Notice PIH 2005-33 (Section 9)

<https://www.hudexchange.info/faqs/4030/if-a-pha-fails-to-submit-its-semap-certification/>

TAGS: HCV : Uncategorized : Section 8 Management Assessment Program (SEMAP) / /

Q: If a Public Housing Agency (PHA) fails to submit its Section 8 Management Assessment Program (SEMAP) certification, will it remain troubled for an entire year?

Yes. The SEMAP score and designation will remain final for the PHA's entire fiscal year unless changed through the appeal process. If a PHA receives a troubled designation due to a failure to submit its certification, it may not appeal its status unless it can demonstrate that HUD was at fault. Cross References: SEMAP, troubled References: Notice PIH 2005-33 (Section 7); Notice PIH 2012-44 (Section 9)

<https://www.hudexchange.info/faqs/4029/if-a-public-housing-agency-pha-fails-to-submit-its-section-8-management/>

TAGS: HCV : Uncategorized : Section 8 Management Assessment Program (SEMAP) / /

Q: Are small Public Housing Agencies (PHAs) (those with fewer than 250 contracted voucher units) required to submit their Section 8 Management Assessment Program (SEMAP) certifications annually or every other year?

Small PHAs are required to submit their SEMAP certifications every other year. HUD will assess and score the SEMAP performance of small PHAs once every other PHA fiscal year, unless the PHA elects to have its performance assessed on an annual basis or if the PHA is designated as troubled. Cross References: SEMAP, small PHA, biennial References: 24 CFR 985.105(a)(2)

<https://www.hudexchange.info/faqs/4028/are-small-public-housing-agencies-phas-those-with-fewer-than-250/>

TAGS: HCV : Uncategorized : Section 8 Management Assessment Program (SEMAP) / /

Q: For project-based vouchers, how do Public Housing Agencies (PHAs) submit inspection results to the Public Housing Information Center (PIC) for the 80 percent of units not subject to inspection (when the minimum sample size is compliant), to avoid loss of points for the Section 8 Management Assessment Program (SEMAP) Annual Housing Quality Standards (HQS) inspections indicator at 24 CFR § 985.3(m)?

SEMAP scoring for inspections is adjusted to remove all project-based voucher (PBV) units as reflected in PIC from the annual inspection indicator. In regular PHA reporting on the form HUD-50058, the HQS lines on the HUD-50058, lines 5h and 5i, are not applicable to project-based vouchers. Cross References: SEMAP, project-based, inspections, form HUD 50058 Part 5 References: 24 CFR 985.3(m); 70 FR 59891 (pg. 59905), Pub. 10/13/2005; Form HUD-50058

<https://www.hudexchange.info/faqs/4027/for-project-based-vouchers-how-do-public-housing-agencies-phas-submit/>

TAGS: HCV : Uncategorized : Section 8 Management Assessment Program (SEMAP) / /

Q: Can a Public Housing Agency (PHA) use an interim reexamination in its quality control sample for the Section 8 Management Assessment Program (SEMAP) adjusted income indicator?

No. This indicator specifically tests whether the PHA correctly calculated adjusted annual income at

the time of admission or annual reexamination. Cross References: SEMAP, reexamination, QC
References: 24 CFR 985.3(c)

<https://www.hudexchange.info/faqs/4026/can-a-public-housing-agency-pha-use-an-interim-reexamination/>

TAGS: HCV : Uncategorized : Section 8 Management Assessment Program (SEMAP) / /

Q: Are Public Housing Agencies (PHAs) required to retroactively void and resubmit HUD-50058s when they contain errors that do not affect the tenant rent or Housing Assistance Payment (HAP) portions?

Yes. PHAs must maintain complete and accurate accounts and records. For the purpose of maintaining accurate Public Housing Information Center (PIC) data, any 50058 reflecting incorrect information should be voided and corrected, regardless of whether the tenant rent or HAP portions change. Cross References: 50058, accurate PIC data, PIC References: 24 CFR 982.158(a); Form HUD 50058 Instruction Booklet (Introduction, Reporting Requirements); Form-50058 User Manual

<https://www.hudexchange.info/faqs/4025/are-public-housing-agencies-phas-required-to-retroactively-void/>

TAGS: HCV : Uncategorized : Form HUD-50058 HCV : Uncategorized : PIH Information Center (PIC) / /

Q: If a Housing Choice Voucher (HCV) family stays in their unit on the effective date of a preservation prepayment, is the Public Housing Agency (PHA) required to execute a new Housing Assistance Payments (HAP) Contract?

No. If all eligibility conditions are met, the owner is not required to terminate the existing lease and HAP Contract for the family to receive enhanced subsidy. If eligible, the family's payment standard will now be the gross rent for the unit and all enhanced voucher minimum rent requirements will also apply. Cross References: Enhanced, rent increase, interim References: Notice PIH 2001-41 (Section II.D)

<https://www.hudexchange.info/faqs/4024/if-a-housing-choice-voucher-hcv-family-stays-in-their-unit-on-the/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: How is an enhanced voucher minimum rent determined at the outset of assistance? How is it redetermined once there is a significant decrease in income?

At the outset of assistance, enhanced voucher families must continue to contribute towards their rent in an amount that is equal to or greater than the amount they were paying at the time of the eligibility event (e.g., the effective date of the mortgage prepayment for preservation payments, etc.). This amount is called the enhanced voucher minimum rent. If a family suffers a decrease in income of at least 15 percent after the eligibility event, their enhanced voucher minimum rent must be changed from the dollar amount they were paying to the percentage of income they were paying for rent at the time of the eligibility event. The exact calculation of the minimum rent will vary depending upon whether the family was unassisted or assisted under a tenant- or project-based contract at the eligibility event. If a family was previously unassisted, the family's revised enhanced voucher minimum rent is the greater of the following: The percentage of the monthly adjusted income the family paid for gross rent on the effective date of the eligibility event 30 percent of the family's current adjusted monthly income If a family was previously assisted under a project- or tenant-based contract, the family's new enhanced voucher minimum rent is the greater of: The percentage of adjusted monthly income paid for Total Tenant Payment (TTP) or the voucher family share on the effective date of the eligibility event 30 percent of the family's current adjusted monthly income Once a family's enhanced voucher minimum rent changes, it will continue to be calculated by the percentage of adjusted monthly income until the family's income increases such that the dollar value of the family's enhanced voucher minimum rent established by the percentage is more than the original enhanced voucher minimum rent. When this occurs, the family's enhanced voucher minimum rent will revert to their original enhanced voucher minimum rent. Cross References: enhanced, rent increase References: Notice PIH 2019-12 (Section 1, 2); Notice PIH 2001-41 (Section II.C.3)

<https://www.hudexchange.info/faqs/4023/how-is-an-enhanced-voucher-minimum-rent-determined-at-the-outset/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: Are there any regulatory provisions for residents who already receive tenant-based assistance at a development that is undergoing a housing conversion action?

Yes. A resident who is already receiving tenant-based assistance on the effective date of a preservation prepayment or voluntary termination may also be covered by enhanced voucher provisions, although they may choose to not be covered. For the participant to be covered by enhanced voucher provisions, the following conditions must be met: The family meets the income requirements on the date of the eligibility event Any rent increase under the voucher program is in accordance with the lease agreement and program regulations The new gross rent is reasonable, as opposed to the contract rent The family decides to stay in the unit instead of moving Cross References: Enhanced, preservation prepayment References: Notice PIH 2001-41 (Section II.D)

<https://www.hudexchange.info/faqs/4022/are-there-any-regulatory-provisions-for-residents-who-already/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: What happens if an over-housed enhanced voucher family refuses to move into an appropriately sized vacant unit?

Over-housed families are required to transfer to an appropriately sized unit, if one is available, to continually receive enhanced voucher assistance. For the unit to be considered “available,” it must not only be available for occupancy, but must also meet all voucher program requirements, including rent reasonableness, housing quality standards, and so forth. If these requirements are met, and the family refuses to move, the Public Housing Agency (PHA) must calculate the family’s housing assistance payment based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA. The family will be responsible for any amount of the gross rent that is not covered by the housing assistance payment. Cross References: Enhanced, over-housed References: Notice PIH 2016-02 (Section 5)

<https://www.hudexchange.info/faqs/4021/what-happens-if-an-over-housed-enhanced-voucher-family-refuses-to-move-into/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: What actions must a Public Housing Agency (PHA) take once it determines that an enhanced voucher family is over-housed (and reasonable accommodation exceptions do not apply)?

If the PHA determines that the family is over-housed, it must inform the family of the fact and further explain that the family will lose their enhanced subsidy if they fail to transfer into an appropriately sized unit upon availability. Per the regulatory guidance, an “appropriately sized unit” includes an available bedroom size that is smaller than the family’s current unit, but not smaller than the unit size the family qualifies for under the PHA’s subsidy standards. In some instances, the appropriate unit size will either not exist at the property or be currently unavailable. The PHA must also inform the owner that the family is over-housed and provide the bedroom size for which the family qualifies. The PHA must further request that the owner identify all appropriately sized units that are available in the development. If one is currently available, the family will be required to move once the PHA determines that the unit meets all Housing Choice Voucher (HCV) program requirements (e.g., rent reasonableness, housing quality standards, etc.). If an appropriately sized unit is not currently available, the family’s enhanced voucher rent calculation will continue to be based upon the gross rent of the oversized unit until an appropriately sized unit becomes available. PHAs must maintain a

record of enhanced voucher families that are living in over-sized units and periodically monitor the availability of appropriately sized units at the development by contacting the owner. PHAs are required to make contact with the owner at least once per quarter. PHAs are further required to keep records of contact they have made with owners (or other sources) that document the availability or expected availability of units. If the PHA is informed that an appropriately sized unit is available, the family must move into the unit within 30 days to continue to receive enhanced voucher assistance. Cross References: Enhanced, over-housed References: Notice PIH 2016-02

<https://www.hudexchange.info/faqs/4020/what-actions-must-a-public-housing-agency-take-once-it-determines-that/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: Should Public Housing Agencies (PHAs) continue to designate units as enhanced after the initial tenant with the enhanced voucher moves or leaves the program?

No. Enhanced vouchers that are provided as the result of a housing conversion action are always tenant-based. After the family moves from the original unit, their voucher will convert to a regular housing choice voucher (HCV). If the family leaves the voucher program, their enhanced voucher will be returned to the PHA's HCV renewal account and lose its enhanced characteristics. Cross References: Enhanced, move, termination, tenant based References: Notice PIH 2001-41 (Section I.B.1); Notice PIH 2001-41 (Section I.B.9)

<https://www.hudexchange.info/faqs/4019/should-public-housing-agencies-continue-to-designate-units-as-enhanced/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: If a family with an enhanced voucher vacates the development, are they able to maintain their enhanced voucher? Or would their voucher become a regular housing choice voucher?

The family's voucher would become a regular housing choice voucher (HCV). Accordingly, the enhanced voucher minimum rent factor would no longer apply, nor would the gross rent payment standard. Lines 2m and 9f of Form HUD-50058 must also be updated to reflect the change. Although enhanced vouchers are always tenant-based, the special rules that apply to enhanced vouchers must conclude once the family vacates the development that underwent a housing conversion action. Cross References: Enhanced, minimum rent, payment standard, tenant-based References: Notice PIH 2001-41 (Section I.B.1); Notice PIH 2001-41 (Section II.C.2); Notice PIH 2001-41 (Section II.C.3)

<https://www.hudexchange.info/faqs/4018/if-a-family-with-an-enhanced-voucher-vacates-the-development-are-they-able/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: During an annual reexamination for an enhanced voucher family, should the gross rent be used as the payment standard when the regularly applicable payment standard is higher?

No. If the gross rent for the unit is lower than the normally applicable payment standard, the normally applicable payment standard must be used for the transaction. Cross References: enhanced, payment standard, gross rent, reexamination References: Notice PIH 2019-12 (Section 2)

<https://www.hudexchange.info/faqs/4017/during-an-annual-reexamination-for-an-enhanced-voucher-family-should-the/>

TAGS: HCV : Special Purpose Vouchers : Enhanced Vouchers (EV) / /

Q: If a Public Housing Agency (PHA)'s Mainstream voucher allocation is fully utilized, and the agency is admitting new families from its waiting list, may the PHA selectively pull families that would not otherwise qualify for a Mainstream voucher?

No. The next family on the waiting list must be served in accordance with the PHA's administrative plan. The PHA is prohibited from skipping a Mainstream-eligible family if it intends to do so merely because it is currently serving its required number of Mainstream families. It should also be emphasized that this requirement does not increase the PHA's Mainstream voucher baseline. This is determined solely by the number of targeted Mainstream vouchers that were allocated to the PHA. Cross References: Mainstream; waitlist; utilization References: Notice PIH 2020-01 (Section 5.h)

<https://www.hudexchange.info/faqs/4016/if-a-public-housing-agency-s-mainstream-voucher-allocation-utilized/>

TAGS: HCV : Special Purpose Vouchers : Mainstream (MS) / /

Q: What happens when a family with a Mainstream voucher is no longer disabled, or if the

qualifying family member is no longer part of the family?

If the family qualified for a Mainstream voucher upon admission, they could keep the voucher even if the previously qualifying member is no longer disabled, moves out of the unit, or is now 62 years of age or older. Under its discretion, the Public Housing Agency (PHA) can convert the family to a regular voucher by removing the “MS5” code on line 2n Form HUD-50058 or line 2p on Form HUD-50058 MTW and properly report the voucher in the Voucher Management System (VMS). The PHA must lease MS vouchers to Mainstream-eligible applicants on the waiting list (i.e., PHAs are not permitted to reassign existing participants to the Mainstream program in order to increase tenant-based voucher availability). PHAs must also maintain one waiting list for all tenant-based assistance, including MS. Cross References: Mainstream, PIC, 50058, eligibility, turnover References: Notice PIH 2020-01 (Section 5.b); Notice PIH 2020-01 (Section 6.b); Notice PIH 2020-01 (Section 5.e); Notice PIH 2020-01 (Section 5.f)

<https://www.hudexchange.info/faqs/4015/what-happens-when-a-family-with-a-mainstream-voucher-is-no-longer-disabled/>

TAGS: HCV : Special Purpose Vouchers : Mainstream (MS) / /

Q: Must the family impacted by the conversion be eligible under Housing Choice Voucher (HCV) requirements in order to qualify for the Tenant Protection Voucher (TPV)?

Yes. Except in the case noted below, the family must independently meet HCV eligibility requirements for admission to the HCV program, including income eligibility, to qualify for the TPV. Very low-income families (i.e., annual income at or below 50% of the median family income for the area, as determined by HUD) are income-eligible for a TPV. In certain cases, as defined in regulations at 24 CFR 982.201(b), a low-income family (i.e., annual income at or below 80% of the median family income for the area, as determined by HUD) may also be income-eligible for the TPV. For example, a low-income family that is “continuously assisted” is income-eligible for the TPV. Continuously assisted means that the family is already receiving assistance under any 1937 Housing Act program when they are admitted to the voucher program. The Public Housing Agency (PHA) must establish policies concerning whether and to what extent a brief interruption between assistance under one of these programs and admission to the voucher program will be considered to break continuity of assistance under the 1937 Housing Act. See 24 CFR §982.201(d). Current Public Housing households cannot be excluded from occupancy in RAD or non-RAD units at a RAD Covered Project-based on any rescreening, income eligibility, or income targeting requirement. See Section 1.6.C.1 of Notice PIH 2019-23/H 2019-09. For instance, when the TPV is issued as part of a RAD/Section 18 blend and the unit is eligible to be covered under the non-RAD project-based voucher (PBV) contract, HUD has extended the prohibition against rescreening public housing residents to the non-RAD PBV units. Cross References: Tenant Protection Voucher, eligibility, income limits References: 24 CFR 982.201(b)(1)(ii) and (d)24 CFR 982.4(b); Notice PIH 2019-23 (Section 1.6.C.1)

<https://www.hudexchange.info/faqs/4014/must-the-family-impacted-by-the-conversion-be-eligible-under-hcv/>

TAGS: HCV : Special Purpose Vouchers : Tenant Protection Vouchers (TPV) //

Q: How is Public Housing Agency (PHA) funding for Tenant Protection Vouchers (TPV) determined?

HUD issues TPVs based upon the average per-unit cost (PUC) in the PHA's Housing Choice Voucher Program. If the PHA that will administer the TPVs has concerns regarding the sufficiency of the TPV funding based on its average PUC, the PHA can either: (a) request an upfront increased PUC along with the TPV funding application, or (b) request higher TPV funding after the PHA has already submitted the TPV funding application, if at the time that the PHA submits the TPV funding application the PHA is unsure if it will need additional funding. Any inquiries about TPV PUC funding increases can be directed to the Financial Management Division (FMD) mailbox at PIHConversionActions@hud.gov. Cross References: Tenant Protection Voucher, funding, average per unit cost References: Notice PIH 2021-10 (Section 6.f)

<https://www.hudexchange.info/faqs/4013/how-is-public-housing-agency-pha-funding-for-tenant-protection-vouchers/>

TAGS: HCV : Special Purpose Vouchers : Tenant Protection Vouchers (TPV) //

Q: If assistance for a family with a relocation Tenant Protection Voucher (TPV) is terminated, can the Public Housing Agency (PHA) utilize funding from this voucher to assist a family on their Housing Choice Voucher (HCV) waiting list?

No, relocation TPVs sunset when the initial family issued the voucher is no longer receiving voucher assistance and funding is not renewed. It is important to note the distinction between relocation TPVs and replacement TPVs. Relocation TPVs are a temporary resource for PHAs to assist individual families who are impacted by a Multifamily or Public Housing action. For this reason, relocation TPVs are no longer available for use once the family to whom the TPV was originally issued ceases to use the TPV (which occurs when the family moves into redeveloped HUD-assisted-housing or when the family's participation in the voucher program ends for any other reason.) This voucher sunset provision does not apply to replacement TPVs, nor to relocation TPVs that were funded from allocations prior to the fiscal year of 2015. Cross References: Tenant protection, allocation, turnover References: Notice PIH 2021-10 (Section 6.c) (or any successor notice); Notice PIH 2018-09 (Section 6.A)

<https://www.hudexchange.info/faqs/4012/if-assistance-for-a-family-with-a-relocation-tenant-protection-voucher/>

TAGS: HCV : Special Purpose Vouchers : Tenant Protection Vouchers (TPV) / /

Q: What types of institutions qualify as a “nursing home or other healthcare institution” for the purposes of determining eligibility for a Non-Elderly Disabled (NED) Category 2 voucher?

Qualifying institutions are defined in the Federal Register, June 22, 2009 (Proposed Notice of Funding Availability, volume 79, page 29,504) and include intermediate care facilities and specialized institutions that care for the mentally retarded, developmentally disabled, or mentally ill. Board and care facilities (e.g., adult homes, adult day care, and adult congregate living) are specifically excluded. Cross References: NED, healthcare institution References: 74 FR 29504 (Section I.D.4), Pub. 06/22/2009

<https://www.hudexchange.info/faqs/4011/what-types-of-institutions-qualify-as-a-nursing-home-or/>

TAGS: HCV : Special Purpose Vouchers : Non-Elderly Disabled (NED) / /

Q: Do Public Housing Agencies (PHAs) have 12 months from the effective date of the funding increment to lease up Family Unification Program (FUP) vouchers before it impacts the Section 8 Management Assessment Program (SEMAP) lease-up indicator?

Yes. New funding increments are excluded from the lease-up indicator for 12 months from the effective date of the increment. Therefore, FUP vouchers can potentially be taken into account only for a portion of the SEMAP scoring period, such as when the 12-month funding increment expires during the PHA's fiscal year. When this applies, the FUP vouchers are taken into account for the remaining time after the funding increment expires. Cross References: SEMAP, lease-up, FUP, funding References: 24 CFR 985.3(n)(1)

<https://www.hudexchange.info/faqs/4010/do-public-housing-agencies-phas-have-12-months-from-the-effective-date/>

TAGS: HCV : Special Purpose Vouchers : Family Unification Program (Youth) / /

Q: Are Family Unification Program (FUP) youths eligible for portability? If so, do they need to port to a Public Housing Agency (PHA) that administers FUP?

Portability for FUP participants is handled in the same way as regular Housing Choice Vouchers (HCVs), so a PHA may not restrict or deny portability for a FUP participant for reasons other than

those specified in the HCV program regulations, such as the restrictions on nonresident applicants specified at 24 CFR 982.353(c). Furthermore, FUP youths are not required to move to a jurisdiction that administers the FUP program. If the receiving PHA does not administer the FUP program and will not absorb the participant into its regular HCV program, all the other portability rules apply. However, the receiving PHA must continue to report the household as FUPY under line 2n of Form HUD-50058 (or line 2p of Form HUD-50058 MTW). If the receiving PHA absorbs the youth into its regular HCV program, the youth will become a regular HCV participant and the limitations of a FUP voucher would no longer apply to them. Cross References: Family Unification, portability
References: Notice PIH 2011-52 (Section 5); Questions and Answers: Family Unification Program (Section: Portability)

<https://www.hudexchange.info/faqs/4009/are-family-unification-program-fup-youths-eligible-for-portability/>

TAGS: HCV : Special Purpose Vouchers : Family Unification Program (Youth) / /

Q: At which point must a Family Unification Program (FUP) youth be no more than 24 years old?

A FUP youth must be no more than 24 years old (have not yet reached their 25th birthday) at the time of the Public Child Welfare Agency's (PCWA) certification that the youth is FUP eligible and at the time of Housing Assistance Payments (HAP) contract execution. This means the timing of the referral is particularly important—if a PCWA is planning to refer a youth that is 24 years old at the time of certification, it is likely the youth will no longer meet the age requirement at the time of HAP Contract execution. Therefore, under this situation the Public Housing Agency (PHA) and PCWA will need to expedite the referral and lease-up process in order to ensure that the age requirement is still met by the effective date of the HAP contract. Otherwise, the youth will no longer be eligible for a FUP youth voucher. Cross References: Family Unification, youth, FUPY, eligibility References: Questions and Answers: Family Unification Program (Question 6)

<https://www.hudexchange.info/faqs/4008/at-which-point-must-a-family-unification-program-fup-youth-be-no-more/>

TAGS: HCV : Special Purpose Vouchers : Family Unification Program (Youth) / /

Q: If a parent of a family with a Family Unification Program (FUP) voucher loses parental rights and the children move from the unit, does the parent get to retain the FUP voucher?

The parent is still eligible to keep their FUP voucher since terminations for FUP vouchers are handled in the same way as regular Housing Choice Vouchers (HCV). The regulations do not permit

program termination if the family loses parental rights or if the children reach adulthood. Public Child Welfare Agencies (PCWA) can help minimize the number of vouchers going to families that then lose their parental rights by properly planning the timing of referrals and accurately anticipating reunification dates, to the extent that it is possible to do so. Families that are leased under the FUP program that no longer have children in the household may be transferred to the regular HCV program, which will allow the FUP voucher to be turned over to the next FUP-eligible family or FUP-eligible youth on the Public Housing Agency (PHA)'s HCV waiting list. Cross References: Family Unification, parental rights, termination References: Questions and Answers: Family Unification Program (Question 45)

<https://www.hudexchange.info/faqs/4007/if-a-parent-of-a-family-with-a-family-unification-program-fup-voucher/>

TAGS: HCV : Special Purpose Vouchers : Family Unification Program (Family) / /

Q: Can a Moderate Rehabilitation contract be changed if the owner intends to renovate the size and number of bedrooms in each unit?

No. The Mod Rehab program was repealed in 1991 and Public Housing Agencies (PHAs) are only permitted to renew existing Housing Assistance Payments (HAP) contracts; therefore, structures under contract are not authorized for redevelopment. The owner may be interested in converting the units under the Rental Assistance Demonstration (RAD) program, which allows for the reconfiguration and conversion of the units to either project-based vouchers or project-based rental assistance. Interested owners and PHAs should review the RAD Fact Sheet for PHAs and Owners, which can be found on HUD's website. This document provides an overview of the process for converting Mod Rehab properties through RAD. Cross References: change contract, modify contract; Mod Rehab References: Notice H 2019-09 PIH 2019-23 (HA) (Section 2); HUD Exchange Public Housing Authorities and Owners Fact Sheet

<https://www.hudexchange.info/faqs/4006/can-a-moderate-rehabilitation-contract-be-changed-if-the-owner-intends/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Moderate Rehabilitation Program (Mod Rehab) / /

Q: What are the income limits for the Moderate Rehabilitation Program?

The regulations for the Moderate Rehabilitation Program at 24 CFR Part 882 do not establish income limits other than those specified for the regular Housing Choice Voucher program at 24 CFR 982.201(b)(1). Cross References: Mod Rehab, income limits, low income, very low income References: 24 CFR 882; 24 CFR 982.201(b)(1)

<https://www.hudexchange.info/faqs/4005/what-are-the-income-limits-for-the-moderate-rehabilitation-program/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Moderate Rehabilitation Program (Mod Rehab) / /

Q: Are Public Housing Agencies (PHAs) required to give public notice of a waiting list opening for its Moderate Rehabilitation Program (Mod Rehab) by publishing the opening in local newspapers, minority media, and so forth?

24 CFR 882.513(a)(1) requires PHAs to “make known to the public the availability of the program.” Therefore, specific methods must be established that satisfy the regulatory requirement. Increasing public awareness of Mod Rehab housing availability implies more than posting notices in the PHA’s offices or website. While the regulation specific to Mod Rehab does not explicitly require the same procedure outlined in 24 CFR 982.206(a) for the regular Housing Choice Voucher (HCV) Program, it would be reasonable for the PHA’s Mod Rehab policy to be consistent. Cross References: Mod Rehab, wait list opening, public notice References: 24 CFR 882.513(a)(1); 24 CFR 982.206(a)

<https://www.hudexchange.info/faqs/4004/are-public-housing-agencies-phas-required-to-give-public-notice-of/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Moderate Rehabilitation Program (Mod Rehab) / /

Q: Can a property owner under a Moderate Rehabilitation (Mod Rehab) contract request a vacancy payment for the month after a unit is vacated?

Yes. Such owners may receive a vacancy payment for eighty percent of the contract rent for the month after a family has moved out, so long as the unit remains vacant. If the owner collects any tenant rent for this month, the vacancy payment must be reduced to an amount which, when added to the family’s payment, does not exceed eighty percent of the contract rent. Any excess vacancy payment must be reimbursed to the Public Housing Agency (PHA). In order to be eligible for a vacancy payment, the owner must also do the following: Immediately notify the PHA upon learning of the vacancy or projected vacancy Take all feasible actions to fill the vacancy Not reject any eligible applicant who wishes to lease the vacant unit, except for good cause acceptable to the PHA If the owner evicted an eligible family, they will not be eligible for any vacancy payment unless the PHA can determine that the owner complied with all requirements under the Moderate Rehabilitation Contract. Cross References: Mod Rehab, vacancy References: 24 CFR 882.411(b)(1); 24 CFR 882.411(b)(1)(i); 24 CFR 882.411(b)(1)(ii); 24 CFR 882.411(b)(2)

<https://www.hudexchange.info/faqs/4003/can-a-property-owner-under-a-moderate-rehabilitation-mod>

-rehab-contract/

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Moderate Rehabilitation Program (Mod Rehab) / /

Q: Is the cap on the number of Project Based Voucher (PBV) units statutory?

Yes. Both of: The percentage limitation of a Public Housing Agency (PHA)'s Annual Contributions Contract (ACC) units that may go toward PBVs The cap on the number of dwelling units within any building that can receive PBVs are statutory limitations found in Section 8(o)(13)(B) and (D), respectively, of the US Housing Act of 1937. Exceptions to the percentage limitation (program cap) and income-mixing requirement (project cap) are outlined in Notice PIH 2017-21. The limit on the number of a PHA's ACC units that can be project-based is 20%, though the PHA may project-base an additional 10% for certain projects and may exclude other projects from the limit entirely, subject to exceptions described in Notice PIH 2017-21 Att. E, F. Cross References: PBV cap, program cap, project cap References: Notice PIH 2017-21 (Attachments C – F)

<https://www.hudexchange.info/faqs/4002/is-the-cap-on-the-number-of-project-based-voucher-pbv-units-statutory/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing Agency (PHA) seek a waiver for the requirement to select families from the waiting list?

The requirement that tenants be selected from a PHA's waiting list for the Project Based Voucher (PBV) program is statutory and cannot be waived. Cross References: Waitlist, tenant selection References: 24 CFR 983.251(a)(1); 24 CFR 983.251(c)

<https://www.hudexchange.info/faqs/4001/can-a-public-housing-agency-pha-seek-a-waiver-for-the-requirement/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Are subsidy layering reviews required for approval of project-based subsidy in existing housing?

No, the subsidy layering requirements are not applicable to existing housing. Cross References: subsidy layering; existing housing References: 24 CFR 983.55(a)

<https://www.hudexchange.info/faqs/3999/are-subsidy-layering-reviews-required-for-approval-of-project-based-subsidy/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can Project Based Voucher (PBV) participants requesting a tenant-based voucher be required to have income prior to receiving a tenant-based voucher?

If a family (or individual) occupies a PBV unit and wishes to exercise their right to request a tenant-based voucher after a year of occupancy, the PHA cannot impose any other restrictions. The statute provides that the Public Housing Agency (PHA) must provide a voucher or other comparable tenant-based assistance when one becomes available. In general, the fact that the tenant has no income is never a basis to deny assistance. Cross References: Discretionary policy, choice mobility, continued assistance References: 24 CFR 983.261

<https://www.hudexchange.info/faqs/3998/can-project-based-voucher-participants-requesting-a-tenant-based-voucher/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: For Project-Based Vouchers, can a Public Housing Agency (PHA) combine exception categories of elderly and units where supportive services are made available, or must it be one or the other?

Yes, the exception categories can be combined. Cross References: project cap References: 82 FR 5458, Pub. 01/18/2017; 82 FR 32461, Pub. 07/14/2017; Notice PIH 2017-21 (Attachment D)

<https://www.hudexchange.info/faqs/3997/for-project-based-vouchers-can-a-public-housing-agency-p-ha-combine/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: If 25% of the units in a project is not a round number – e.g., there are 18 units and 25% = 4.5 – can a Public Housing Agency (PHA) round up and project-base five units without triggering the requirements applicable to project-basing more than 25% of the units in a development?

The requirement is that not more than 25% of units may be project-based in any one project unless one of the exception categories is met. A PHA, therefore, cannot round up because such rounding would result in greater than 25% of units being project-based. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) amended the income-mixing requirement for an individual project so that the limit on the number of Project Based Vouchers (PBVs) in a project is the greater of 25 units or 25% of the units in a project. Cross References: project cap References: 82 FR 5458, Pub. 01/18/2017; 82 FR 32461, Pub. 07/14/2017; Notice PIH 2017-21 (Attachment E)

<https://www.hudexchange.info/faqs/3996/if-25-of-the-units-in-a-project-is-not-round-can-pha-round-up/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing Agency (PHA) pass on the extra costs of monitoring Davis Bacon wages to a developer?

No. According to regulation, “the PHA must monitor compliance with labor standards.” Since this is a requirement for the PHA, according to HUD regulations, the PHA may not charge the developer for the cost of monitoring Davis Bacon wages or any other labor standards monitoring. Cross References: Davis Bacon, Davis Bacon monitoring, Fees to developer References: 24 CFR 983.154(b)(3)

<https://www.hudexchange.info/faqs/3995/can-a-pha-pass-on-the-extra-costs-of-monitoring-davis-bacon/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: A Public Housing Agency (PHA) is requesting to project-base PHA-owned units and rent reasonableness tests must be conducted by an independent entity. Can the PHA perform its own data entry and receive results from a computer-generated test provided by an independent entity for this purpose?

No. The regulation states that an independent entity may be “the unit of general local government...or another HUD-approved public or private independent entity.” A computer program does not meet the nature of the independent entity described in the regulation, since the regulation indicates that it is an organization that makes the final determination, not a machine. Cross References: PBV rent reasonableness, PHA-owned PBV rent References: 24 CFR 983.59(c)

<https://www.hudexchange.info/faqs/3994/a-pha-is-requesting-to-project-base-pha-owned-units-rent-reasonableness/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can Program Based Vouchers (PBVs) be used in Public Housing Agency (PHA)-owned units?

Yes. The use of PBV in PHA-owned units is covered at 24 CFR 983.59. Further guidance can be found in Notice PIH 2071-21 (Attachment A). Cross References: PHA-owned PBVs References: 24 CFR 983.59; Notice PIH 2017-21 (Attachment A)

<https://www.hudexchange.info/faqs/3993/can-program-based-vouchers-be-used-in-pha-owned-units/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: If a Public Housing Agency (PHA) is signing a Housing Assistance Payments (HAP) Contract for Project-Based Vouchers (PBVs) tied to units owned by the PHA (not a PHA non-profit), is the HAP contract between the PHA and itself?

In accordance with Notice PIH 2017-21, the HAP contract administrator and the owner cannot be the same legal entity (i.e., the PHA acting as contract administrator cannot execute a contract with itself as the owner of the PBV or Housing Choice Voucher (HCV) units). The PHA must establish a separate legal entity to serve as the owner. Such an entity may be one of the following: A non-profit affiliate or instrumentality of the PHA A limited liability corporation A limited partnership A corporation Any other legally acceptable entity recognized under State law Such an entity would serve as the owner only for purposes of execution of the HAP contract. Cross References: PBV HAP Contract, PHA-owned HAP Contract References: Notice PIH 2017-21 (Attachment A)

<https://www.hudexchange.info/faqs/3992/if-a-public-housing-agency-pha-is-signing-a-housing-assistance-payments/>

Q: Are Project Based Voucher (PBV) units required to be located in census tracts with poverty rates of less than 20 percent?

This is not an absolute requirement, but project-based assistance should forward the goal of deconcentrating poverty and expanding housing and economic opportunities. There are several considerations for site-selection standards which should guide the Public Housing Authority (PHA)'s decision. One of the points for consideration when looking at census tracts with poverty rates of greater than 20 percent, is whether in the past five years there has been an overall decline in the poverty rate. Cross References: census tracts, deconcentration References: 24 CFR 983.57(b)(1)

<https://www.hudexchange.info/faqs/3991/are-project-based-voucher-units-required-to-be-located-in-census-tracts/>

Q: What does HUD consider the “commencement of construction” for Project Based Voucher (PBV) purposes? Can a Public Housing Agency (PHA) consider construction to start with waste-removal activities from the development site, which must happen before actual construction can start?

Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing. Generally, waste removal would not be considered the start of construction, but if the waste removal is a significant aspect of the land clearing or is being funded from the development budget that is subject to the subsidy layering review, it could be considered a construction activity in limited circumstances. Cross References: Start of construction definition References: 24 CFR 983.152(c)

<https://www.hudexchange.info/faqs/3990/what-does-hud-consider-the-commencement-of-construction-for-pbv/>

Q: How can an existing non-Project-Based Voucher Low-Income Housing Tax Credit (LIHTC) community enter into a Project-Based Voucher Housing Assistance Payments (HAP) contract?

PBVs can only be awarded to a site in accordance with the agency's Administrative Plan and pursuant to the competition requirements specified at 24 CFR 983.51, or the exemption from competition pursuant to Notice PIH 2017-21. Cross References: LIHTC References: 24 CFR 983.51(b); Notice PIH 2017-21 (Attachment L)

<https://www.hudexchange.info/faqs/3989/how-can-an-existing-non-project-based-voucher-low-income-housing-tax-credit/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing Agency (PHA) obtain a waiver to project-base more than 20-percent of its Consolidated Annual Contributions Contract (ACC) authorized units?

This limit is statutory and can be found at Housing Act of 1937 8(o)(13)(B). Because this limit is statutory, it cannot be waived. However, changes made to the Housing Act of 1937 by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) exempt certain units from counting towards the Project Based Voucher (PBV) percentage limitation and exempt them from income-mixing requirements when PBV assistance is attached to them. A full list of excepted units is provided within Attachment F of Notice PIH 2021-21. Additional changes introduced by HOTMA allow PHAs to project-base an additional 10% of their Annual Contributions Contract (ACC) authorized units to serve certain special needs populations. Units eligible for this exception must serve the homeless, veterans, elderly or disabled persons who will receive supportive services in association with the unit or be located in a census tract with a poverty rate of 20% or less. For details on eligibility and implementation, consult Notice PIH 2017-21. Cross References: PBV budget authority References: Notice PIH 2017-21 (Attachment D); Notice PIH 2017-21 (Attachment F)

<https://www.hudexchange.info/faqs/3988/can-a-public-housing-agency-pha-obtain-a-waiver-to-project-base-more-than/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing tenant who is listed on a lifetime sex offender registry be considered continuously assisted and remain in a unit which is being removed from the Public Housing program and then being project-based?

No. Although a continuously assisted tenant in this circumstance is not subject to all of the eligibility requirements applied to a new admission to the Housing Choice Voucher (HCV) program, 24 CFR 983.251(b)(2) states that in cases of continued assistance, "the PHA may deny assistance for the grounds specified in 24 CFR 982.552 and 982.553." The latter reference covers the regulations for

denial of assistance due to criminal activity, and in particular states an outright mandatory prohibition against the admission to the HCV program of anyone who “is subject to a lifetime registration requirement under a State sex offender registration program.” Cross References: PBV eligibility, sex offender References: 24 CFR 982.553(a)(2)(i); 24 CFR 983.251(b)(2)

<https://www.hudexchange.info/faqs/3987/can-a-public-housing-tenant-who-is-listed-on-a-lifetime-sex-offender/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing Agency (PHA) have the owner/manager of a Project Based Voucher (PBV) project perform annual and interim reexaminations and administer the waiting list?

The PHA must perform all normal PHA functions, which include annual and interim reexaminations and administration of the PBV waiting list. A site-based waiting list is permitted under program regulations; however, the PHA must administer the list. Cross References: PBV reexaminations, PBV waiting list References: 24 CFR 982.516(a); 24 CFR 983.2(c)(6)(ii); 24 CFR 983.251(c)(1) and (c)(3)

<https://www.hudexchange.info/faqs/3986/can-a-public-housing-agency-pha-have-the-owner-manager-of-a-project-based/>

TAGS: HCV : Project-Based Vouchers and Moderate Rehabilitation Program : Project-Based Vouchers (PBV) / /

Q: Can a Public Housing Agency (PHA) negotiate a deal with a city that wants to issue a request for proposals (RFP) to develop affordable housing in which the developer would receive some Project Based Vouchers (PBV) vouchers if they were awarded a contract?

Project-based vouchers cannot be awarded to developments which did not undergo a competitive process except in certain circumstances, described in Notice PIH 2017-21, which implements part of the Housing Opportunity Through Modernization Act (HOTMA). PHAs may attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process. In order to exercise this authority, the PHA must be engaged in an initiative to improve, develop, or replace a public housing property or site. Cross References: Special needs population, PBV RFP References: 24 CFR 983.51(b)(2); Notice PIH 2017-21 (Attachment L)

<https://www.hudexchange.info/faqs/3985/can-a-public-housing-agency-pha-negotiate-a-deal-with-a-city-that-wants/>

Q: If a Public Housing Agency (PHA) has taken all cost-saving measures possible but must terminate Housing Choice Vouchers (HCV) vouchers due to a shortfall in funding, are project-based vouchers exempt from the termination?

If appropriated funds are insufficient to fund all vouchers administered by a PHA, the PHA must implement cost-savings measures before terminating any Project Based Vouchers (PBV) Housing Assistance Payments (HAP) Contract. During this process, the PHA must ensure that all cost-savings measures found in Notice PIH 2011-28 have been taken. If the PHA implements all of these cost-saving measures and still has insufficient funds to cover housing assistance payments, then the PHA may choose to terminate payments under its HCV or PBV programs. PHAs may identify in their Administrative Plan additional cost saving measures that they will implement prior to terminating HCV or PBV assistance. Furthermore, PHAs may also determine which type of assistance (HCV or PBV) to terminate first, but must identify in their Administrative Plan the factors they will consider in making such a determination. Cross References: shortfall, project-based References: 24 CFR 983.205(c); Notice PIH 2011-28 (Section 5); Notice PIH 2017-21 (Attachment H)

<https://www.hudexchange.info/faqs/3984/if-a-public-housing-agency-pha-has-taken-all-cost-saving-measures/>

Q: Can a Public Housing Authority (PHA) port a HUD - Veterans Affairs Supportive Housing (VASH) voucher if the veteran did not reside in the PHA's jurisdiction at the time of application for Housing Community Voucher (HCV) assistance? Can the receiving PHA absorb the HUD-VASH voucher family or are they required to bill the initial PHA?

Yes. The portability restriction for nonresident applicants, as stated at 24 CFR 982.353(c), has been waived for the HUD-VASH program. Therefore, HUD-VASH families have the right to portability regardless of whether the head and spouse were legal residents in the initial PHA's jurisdiction at the time of application. However, the family's portability eligibility will depend upon whether the family wants to port within or outside the initial Veterans Affairs (VA) facility's catchment area. When a HUD-VASH family wishes to port, the initial VA facility must be consulted prior to the move and receive written confirmation that VA case management will continue at the family's new location. If the receiving PHA does not administer a HUD-VASH program, it must bill the initial PHA. If it does, it may only absorb the family if a HUD-VASH voucher is available and case management can be provided through a VA facility that partners with the receiving PHA. Regardless, in all cases of portability within the same catchment area, the initial VA facility must make the determination regarding which VA facility will provide the family with case management. This determination

ultimately affects whether the receiving PHA can absorb the family. For more detailed information regarding this topic, please refer to the Revised HUD-VASH Operating Requirements found in the Federal Register (FR), published on September 27, 2021 (Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program). Cross References: VASH, portability References: 24 CFR 982.353(c); 86 FR 53207 (Section II.f), Pub. 09/27/2021; Notice PIH 2011-53 (Section 2.b.5 and Section 2.b.6) (Visit HUD.gov to download the Notice)

<https://www.hudexchange.info/faqs/3983/can-a-public-housing-authority-pha-port-a-hud-veterans-affairs/>

TAGS: HCV : HUD-VASH : Veteran's Affairs Supportive Housing (VASH) / /

Q: May the family of a veteran keep the HUD-Veterans Affairs Supportive Housing (VASH) voucher after the veteran has been terminated from the program due to domestic violence?

In the case of domestic violence, dating violence, sexual assault, or stalking, in which the HUD-VASH veteran is the perpetrator, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher due to the perpetrator's acts of domestic violence, dating violence, sexual assault, or stalking, the victim must be given a regular Housing Choice Voucher (HCV) if one is available, and the perpetrator's HUD-VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available for the victim, the perpetrator must be terminated from assistance, and the victim will continue to utilize the HUD-VASH voucher. Cross References: HUD VASH, remaining members, domestic violence, VAWA, remove References: 86 FR 53207 (Section II.h), Pub. 09/27/2021; 24 CFR 5.2009(a)(1); 24 CFR 982.552(c)(2)(ii); VHA Directive 1162.05(4)(o)(20)(c) (Visit VA.gov to download the Directive)

<https://www.hudexchange.info/faqs/3982/may-the-family-of-a-veteran-keep-the-hud-veterans-affairs-supportive/>

TAGS: HCV : HUD-VASH : Veteran's Affairs Supportive Housing (VASH) / /

Q: Can Public Housing Agencies (PHAs) deny admission under the HUD Veteran's Affairs Supportive Housing (VASH) program for a veteran who was previously terminated from the HUD-VASH program?

No. Under the HUD-VASH program, PHAs are only permitted to deny assistance if the family fails to meet the PHA's income eligibility requirements or if a family member is subject to a lifetime sex offender registration requirement. In the latter case, if the family member subject to the requirement is not the homeless veteran, the family may be assisted if they agree to remove the sex offender from their household. Cross References: HUD VASH, denial, termination References: 86 FR 53207

(Section II.a-b), Pub. 09/27/2021; Notice PIH 2008-37 (Section 3.a)

<https://www.hudexchange.info/faqs/3981/can-public-housing-agencies-phas-deny-admission-under-the-hud-veteran/>

TAGS: HCV : HUD-VASH : Veteran's Affairs Supportive Housing (VASH) / /

Q: Can a Public Housing Agency (PHA) terminate assistance for eviction due to a serious lease violation without offering an informal hearing?

No. An informal hearing must be offered in this case. Cross References: termination, hearing, violation, eviction References: 24 CFR 982.552 (b)(2); 24 CFR 982.555(a)(1)(iv)

<https://www.hudexchange.info/faqs/3980/can-a-public-housing-agency-pha-terminate-assistance-for-eviction-due-to/>

TAGS: HCV : Informal Hearings & Reviews : Informal Hearings / /

Q: When a decision is made to deny assistance, are Public Housing Agencies (PHAs) required to provide notice of the applicant's informal review option in writing?

Yes, applicants must be informed of their option to request an informal review in writing. 24 CFR 982.5 states that any notice required by 24 CFR 982 must be provided in writing. Cross References: written notice, informal hearing References: 24 CFR 982.5; 24 CFR 982.554(a)

<https://www.hudexchange.info/faqs/3979/when-a-decision-is-made-to-deny-assistance-are-public-housing-agencies/>

TAGS: HCV : Informal Hearings & Reviews : Informal Reviews / /

Q: If an owner wishes to change a tenant's utility responsibilities during lease renewal, is the Public Housing Agency (PHA) required to collect a new Request for Tenancy Approval (RFTA), conduct a new initial inspection, and negotiate a new Housing Assistance Payments (HAP) Contract?

In order to request a change in utility responsibility, the owner must first inform the PHA of their intent to change the originally assigned responsibilities. This process does not require a new RFTA or initial inspection. Upon receipt of the owner's request, the PHA must conduct a new rent reasonableness analysis and possibly negotiate a new contract rent with the owner. Once a new contract rent is determined, the owner must submit a new lease and execute a new HAP contract with the PHA reflecting the changes. Cross References: utility responsibility, utility allowance References: 24 CFR 982.308(g)(1) and (g)(2); HCV Guidebook Chapter 13, "HAP Contracts" (Section 7); Form HUD-52641 (Part C, Section 18.b)

<https://www.hudexchange.info/faqs/3978/if-an-owner-wishes-to-change-a-tenants-utility-responsibilities/>

TAGS: HCV : HAP Contracts : Changes Requiring New HAP Contract HCV : HAP Contracts : Contents of Housing Assistance Payments Contract HCV : HAP Contracts : Owner Approvals / /

Q: Are Public Housing Agencies (PHAs) required to prepare a new Housing Assistance Payments (HAP) contract and obtain a new lease from an owner after a rent increase is approved?

If the only item changing relative to the initial lease is the contract rent, no new lease nor HAP contract is required. On the other hand, if the requested change also reflects a change in utility responsibility, a new lease and HAP contract would be required. Similarly, if there are changes governing the term of the lease along with the rent increase, a new lease and HAP contract would be required. Cross References: HAP Contract, rent increase, utility change References: 24 CFR 982.308(g)(2); Form HUD-52641 (Part C, Section 18); HCV Guidebook Chapter 13, "HAP Contracts" (Section 7)

<https://www.hudexchange.info/faqs/3977/are-phas-required-to-prepare-a-new-hap-contract/>

TAGS: HCV : HAP Contracts : Changes Requiring New HAP Contract HCV : HAP Contracts : Contents of Housing Assistance Payments Contract HCV : HAP Contracts : Owner Approvals / /

Q: Can a Public Housing Agency (PHA) open its waiting list for certain populations (e.g., veterans)?

Yes, if the PHA has established preferences for certain populations and opens the waiting list specifically for those populations. PHA local preferences must be based upon local housing needs and priorities, as determined by the PHA. When determining local housing needs and priorities, the PHA should use generally accepted data sources. The preferences must also be stated in the admission policy of the PHA's Administrative Plan, and public comment on the proposed preferences

must be considered before adoption. The PHA must give public notice when the waiting list is open, but applications can be limited to the specific populations. Cross References: preferences, target population References: 24 CFR 982.202; 24 CFR 982.206(b)

<https://www.hudexchange.info/faqs/3976/can-a-public-housing-agency-pha-open-its-waiting-list-for-certain/>

TAGS: HCV : Waiting List & Tenant Selection : Waiting List Preferences and Admissions Targeting / /

Q: Can a Public Housing Agency (PHA) have “set-aside” vouchers to serve a particular population, like people experiencing homelessness, separate from the regular voucher waiting list?

No, a PHA may not establish a “set-aside”-like program separate from the regular voucher waiting list. However, a PHA may establish a system of local preferences for selection of families from the waiting list which target specific populations, such as people experiencing homelessness. The preferences must be described in the PHA's Administrative Plan, and the PHA may additionally limit the number of applicants that may qualify for any local preference. For example, if a PHA wanted to set aside 30 vouchers for families experiencing homelessness, the PHA could revise the Administrative Plan to set such a preference and limit the number of applicants that may qualify for this preference to 30. Cross References: set aside; homeless admissions preference References: 24 CFR 982.202(a) and (d); 24 CFR 982.207(a)

<https://www.hudexchange.info/faqs/3974/can-a-public-housing-agency-pha-have-set-aside-vouchers-to-serve/>

TAGS: HCV : Waiting List & Tenant Selection : Waiting List Preferences and Admissions Targeting / /

Q: Can a Public Housing Agency (PHA) issue a voucher to someone who is displaced from Public Housing due to accessibility needs if they are not on the PHA's Housing Community Voucher (HCV) waiting list?

No. The PHA cannot issue a voucher to someone who is not on the PHA's HCV waiting list. The PHA may establish a preference for families in the Public Housing program that have been unable to find a unit that accommodates their disability-related needs. Cross References: wait list preferences, additional vouchers, public housing displacement References: 24 CFR 982.202; 24 CFR 982.207

<https://www.hudexchange.info/faqs/3973/can-a-public-housing-agency-pha-issue-a-voucher-to-someone-who-is/>

Q: For Family Unification Program (FUP) or Foster Youth Initiative (FYI) vouchers, can a Public Housing Agency (PHA) establish preferences for families for whom the lack of adequate housing is key in the separation (or threat thereof) of children from the family, and for youths 18 to 21 years old aging out of foster care who lack adequate housing?

PHAs are not required to establish a local preference to facilitate the admission of participants for the FUP, the FYI announced in Notice PIH 2019-20, or similar programs, although they may do so. FUP and FYI vouchers are funded through specific appropriation for those programs, and these voucher slots must be filled with referrals from the participating Public Child Welfare Agency. Cross References: special program preferences; tenant selection; FUP; FYI References: 24 CFR 982.207; Notice PIH 2012-34

<https://www.hudexchange.info/faqs/3972/for-family-unification-program-or-foster-youth-initiative/>

Q: Can a reasonable accommodation be provided to a participant family with no disabled member if they wish to rent from a relative who is disabled?

No. A member of the assisted family must be disabled in order for the Public Housing Agency (PHA) to consider such an accommodation. Reasonable accommodations are intended to provide disabled applicants or participants equal access to the program, and not to meet the needs of disabled nonparticipants. Cross References: nonparticipants, relative References: 24 CFR 982.306(d); Notice PIH 2010-26 (Section II.A.3)

<https://www.hudexchange.info/faqs/3971/can-a-reasonable-accommodation-be-provided-to-a-participant-family-with-no/>

Q: Can a Public Housing Agency (PHA) make an exception to its subsidy standards or occupancy policies if requested as a reasonable accommodation?

Yes. Reasonable accommodation requests must be considered on a case-by-case basis and there must be an identifiable relationship between the requested accommodation and the individual's disability. For instance, a PHA may need to add an additional bedroom to a voucher as a reasonable accommodation for a person with a disability if they require additional space to store medical equipment. Similarly, 24 CFR 982.601(b)(3) states that PHAs must permit use of any special housing type (such as Single Room Occupancies) if needed as a reasonable accommodation. This is regardless of whether the PHA normally provides subsidies for the special housing type. Other than granting an exception as a reasonable accommodation, the regulations at 24 CFR 982.402(b)(8) allow PHAs to grant an exception to their established subsidy standards if it is determined that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Such an exception may not override the limitation specified at 24 CFR 982.402(b)(7), which states that the unit size for a single member household must be a zero or one-bedroom unit, as determined by the PHA's subsidy standards. Cross References: policy changes, subsidy standards References: Notice PIH 2010-26 (Section I.B.7); Notice PIH 2011-31 (Section V.1)(Visit HUD.gov to download the Notice); 24 CFR 982.601(b)(3); 24 CFR 982.402(b)(8) and (b)(7)

<https://www.hudexchange.info/faqs/3970/can-a-public-housing-agency-pha-make-an-exception-to-its-subsidy-standards/>

TAGS: HCV : Fair Housing : Limited English Proficiency HCV : Fair Housing : Reasonable Accommodations / /

Q: A disabled family has requested a reasonable accommodation for an exception payment standard in order to lease a unit that is over their maximum initial rent burden. This unit also meets a disability-related need. Can the Public Housing Agency (PHA) approve this accommodation?

Yes. Families may not pay more than forty percent of their adjusted income towards gross rent when they first lease a unit. Although a reasonable accommodation cannot be granted to waive this requirement, a PHA may approve a reasonable accommodation for an exception payment standard of up to 120 percent of the published fair market rent (FMR) if such an accommodation is needed to address a need related to a disability. If an exception payment standard of more than 120 percent of the FMR is required, the PHA must obtain prior approval from HUD. Cross References: exception payment standard References: 24 CFR 982.503(b)(v) and (b)(vi); 24 CFR 982.505(d); Notice PIH 2016-05 (Attachment M)

<https://www.hudexchange.info/faqs/3969/a-disabled-family-has-requested-a-reasonable-accommodation-for-an-exception/>

TAGS: HCV : Fair Housing : Limited English Proficiency HCV : Fair Housing : Reasonable Accommodations / /

Q: What steps must a Public Housing Agency (PHA) take if a housing discrimination complaint is received against a private landlord?

If this type of housing discrimination complaint is submitted directly to the agency, the PHA must instruct the family on how to formally file a complaint with HUD. Fair Housing complaints may be filed online or by e-mail, mail, or phone via the housing discrimination complaint hotline at 1-800-669-9777. See the Fair Housing page on HUD's website for additional information. Cross References: fair housing, complaint, discrimination, protected class References: 24 CFR 103.10-40; 24 CFR 982.304

<https://www.hudexchange.info/faqs/3968/what-steps-must-a-public-housing-agency-pha-take-if-a-housing/>

TAGS: HCV : Fair Housing : Fair Housing / /

Q: Do continued eligibility regulations regarding criminal activity apply to participants with Housing Choice Voucher (HCV) Homeownership assistance?

Families receiving homeownership assistance must comply with the obligations of a participant family described at 24 CFR 982.551, including crime by household members. However, the following participant family obligation provisions do not apply to families who receive assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j). Cross References: homeowner, family obligations, crime, criminal References: 24 CFR 982.633(b)(9); 24 CFR 982.551(h)(l); Form HUD-52649

<https://www.hudexchange.info/faqs/3967/do-continued-eligibility-regulations-regarding-criminal-activity-apply-to/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: If a homeownership participant receives title to a second property during their program participation would they become ineligible for homeownership assistance?

Yes. 24 CFR 982.633(b)(7) prohibits families from having any ownership interest in any other residential property while receiving assistance under the homeownership option. Cross References: first-time, home buyer, inherit References: 24 CFR 982.633(b)(7); Form HUD-52649

<https://www.hudexchange.info/faqs/3966/if-a-homeownership-participant-receives-title-to-a-second-p>

roperty-during/

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Under portability, can the receiving Public Housing Authority (PHA) assist a family under the homeownership option if the voucher is not being absorbed?

If the family is otherwise eligible for portability, they may receive homeownership assistance with the receiving PHA if they were determined eligible for homeownership assistance by the initial PHA and the receiving PHA is accepting new homeownership families. Under this arrangement, the family would be required to attend any briefing and counseling required by the receiving PHA. Furthermore, the receiving PHA would be responsible for determining whether the condition of the unit and home purchase financing are acceptable. Cross References: homeownership, portability References: 24 CFR 982.636(a), (b), and (d)

<https://www.hudexchange.info/faqs/3965/under-portability-can-the-receiving-public-housing-authority/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Under the Housing Choice Voucher (HCV) Homeownership option, can a family purchase a home that they currently have an ownership interest in under a family trust?

No. 24 CFR 982.627 clearly states that “except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member [may have] a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.” Cross References: income property; ownership interest References: 24 CFR 982.627(a)(6)

<https://www.hudexchange.info/faqs/3964/under-the-housing-choice-voucher-hcv-homeownership-option-can-a-family/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Under the Housing Choice Voucher (HCV) Homeownership option, can a family purchase a particular home if they will not hold fee title to the real property upon which the home is located?

Yes, but only provided that the home is located on a permanent foundation and the family has the right to occupy the site for a period of at least forty years. Cross References: homeownership lease; occupy, forty years; fee title References: 24 CFR 982.628(b)

<https://www.hudexchange.info/faqs/3963/under-the-housing-choice-voucher-hcv-homeownership-option-can-a-family/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Can Public Housing Agencies (PHAs) limit financing options for a Housing Choice Voucher (HCV) homeownership purchase?

PHAs may establish requirements for financing the purchase of a home under the homeownership option. For instance, 24 CFR 982.632(a) describes possible restrictions, which may include “requirements concerning qualification of lenders (for example, a prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, establishment of a minimum homeowner equity requirement from personal resources, or provisions required to protect borrowers against high-cost loans or predatory loans).” However, PHAs may not require families to acquire financing from PHA-specified lenders, as this may restrict a family’s ability to secure favorable financing terms. PHAs may also establish requirements or other restrictions concerning debt secured by the home. PHAs should always review lender qualifications and any loan terms before authorizing homeownership assistance. Thereafter, the PHA may disapprove the proposed financing, refinancing, or other debt if it is unaffordable or if the lender or loan terms do not meet the PHA’s qualifications. If the purchase is financed with Federal Housing Administration (FHA) mortgage insurance, it is subject to FHA mortgage insurance requirements, which PHAs do not have the authority to waive. All PHA financing and affordability requirements regarding the homeownership option must be specified in the agency’s administrative plan. Cross References: mortgage lender; homeownership References: 24 CFR 982.632

<https://www.hudexchange.info/faqs/3961/can-public-housing-agencies-phas-limit-financing-options-for-a-housing/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Are Public Housing Agencies (PHAs) able to exercise discretion when determining which

**homeownership expenses will be included in a Housing Choice Voucher (HCV)
Homeownership family's monthly expense subsidy?**

Yes. PHAs may adopt specific policies when determining the amount of homeownership expenses to be allowed and the regulations define what can be included. If the homeowner is not a cooperative member, these expenses may only include amounts to cover the following: Principal and interest on the initial mortgage debt, any refinancing of such debt, and any mortgage insurance premiums incurred by the family to purchase the home Real estate taxes and public assessments on the home Home insurance An allowance for maintenance expenses, as determined by the PHA An allowance for costs of major repairs and replacements, as determined by the PHA The PHA's utility allowance for the unit Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home, including debts incurred by the family to finance costs needed to make the home accessible for a person with disabilities if needed as a reasonable accommodation Land lease payments On the other hand, if the participant homeowner is a cooperative member, allowable expenses may only include: Cooperative charges under the cooperative occupancy agreement including payment for real estate taxes and public assessments Principal and interest on initial debt incurred to finance purchase of cooperative membership share and any refinancing of such debt Home insurance An allowance for maintenance expenses, as determined by the PHA An allowance for costs of major repairs and replacements, as determined by the PHA The PHA's utility allowance for the unit Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home, including debts incurred by the family to finance costs needed to make the home accessible for a person with disabilities if needed as a reasonable accommodation Lastly, if the home is a cooperative or condominium unit, expenses may also include cooperative or condominium operating charges or maintenance fees assessed by the applicable homeowner association. Cross References: homeownership expenses; homeownership HAP; monthly expenses References: 24 CFR 982.635(c)

<https://www.hudexchange.info/faqs/3960/are-public-housing-agencies-phas-able-to-exercise-discretion-when/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: A Housing Choice Voucher (HCV) Homeownership program applicant is anticipated to start a second job that will increase their employment to 30 hours per week. Would they qualify for the HCV Homeownership program?

The regulation at 24 CFR 982.627(d) lays out the employment requirements at commencement of homeownership assistance (i.e., at the time the family will initially receive homeownership assistance) for non-elderly, non-disabled families. While the regulation defines "full time employment" as not less than an average of 30 hours per week and requires the family to have been continuously employed during the year before commencement of homeownership assistance, 982.627(d)(2) gives a Public Housing Agency (PHA) the discretion to determine whether and to what extent interruptions are considered to break continuity of employment during the year. The PHA must verify the anticipated increase in income and determine if the regulatory requirements have been met. Cross References: homeownership eligibility; minimum employment References: 24 CFR 982.627(d)(1)(i)

<https://www.hudexchange.info/faqs/3959/a-housing-choice-voucher-hcv-homeownership-program-applicant-is/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: What action should a Public Housing Agency (PHA) take when a Housing Choice Voucher (HCV) Homeownership participant is delinquent with their mortgage but has not yet been dispossessed from their home by court order?

Per CFR 982.633(b)(2), the family must comply with the terms of any mortgage securing debt incurred to purchase the home. The manner in which the PHA enforces family compliance is at the PHA's discretion, but HUD encourages PHAs to assist families with contacting a housing counseling agency. If the family is disposed from the home pursuant to a judgment or court order, the PHA must terminate homeownership assistance for the family. Cross References: foreclosure, homeownership, dispossessed References: 24 CFR 982.633(b)(2); 24 CFR 982.638(d)

<https://www.hudexchange.info/faqs/3958/what-action-should-a-public-housing-agency-pha-take-when-a-housing-choice/>

TAGS: HCV : Special Housing Types : Homeownership Option / /

Q: Can a Public Housing Agency (PHA) enter into two Housing Assistance Payments (HAP) Contracts for a family renting a manufactured home if the manufactured home and lot space are owned by two separate parties?

No. Notice PIH 2017-18 indicates that a manufactured home may be assisted under the Housing Choice Voucher (HCV) program in one of three ways, and none of these possibilities include an arrangement where assistance is paid to two separate owners for the manufactured home and home space. These three methods include the following: Regular rental assistance (Regular HCV): the family rents a manufactured home under the regular voucher program. There is no separate charge (one HAP) to the family for the home space—the rental of the unit covers both the manufactured housing unit and the space. Homeownership voucher assistance (Special Housing Type): the family purchases the manufactured home under the homeownership voucher program and the program assists the family with their monthly homeownership expenses (one HAP). Manufactured home space rental assistance (Special Housing Type): the family owns the manufactured home but is renting the space under the manufactured home space (one HAP). Both the homeownership voucher option (category 2 above) and the manufactured home space rental (category 3 above) are special housing types under the HCV program. The PHA is generally not required to make a special housing type available as part of its HCV program. In addition, the PHA may limit the number of

families that may use this special housing type. However, the PHA must permit the use of this special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. The regulations at 24 CFR 982.601 provide an overview of special housing type requirements. Cross References: manufactured home, lot rent References: Notice PIH 2017-18 (Section 3); 24 CFR 982.601

<https://www.hudexchange.info/faqs/3957/can-a-public-housing-agency-pha-enter-into-two-housing-assistance-payments/>

TAGS: HCV : Special Housing Types : Manufactured Homes and Home Space Rentals / /

Q: May the owner of a single-family home reside in the unit with a participant family under the Shared Housing option?

Yes, but only under the condition that housing assistance payments are not paid on behalf of the owner and the assisted family is not related to the owner by blood or marriage. Cross References: relative, family member, live-in aide References: 24 CFR 982.615(b)(3)

<https://www.hudexchange.info/faqs/3956/may-the-owner-of-a-single-family-home-reside-in-the-unit-with-a-participant/>

TAGS: HCV : Special Housing Types : Shared Housing / /

Q: Under the Shared Housing option, can a disabled participant rent from a relative who will also occupy the unit as a live-in aide?

No. Although 24 CFR 982.615(b)(3) states that the owner of a shared housing unit may reside in the unit, the assisted person may not be related to the resident owner by blood or marriage. In addition, an owner occupying the unit also cannot become a live-in aide if they are not related to the participant, since the regulation states that housing assistance may not be paid on behalf of an owner. If the owner were to become a live-in aide, the family's subsidy would be increased due to the addition, making a portion of the housing assistance payment payable on behalf of the owner. Cross References: relative, family member, live-in aide References: 24 CFR 982.615(b)(3); Notice PIH 2021-05 (Section 7)

<https://www.hudexchange.info/faqs/3955/under-the-shared-housing-option-can-a-disabled-participant-rent-from/>

Q: Are Single Room Occupancy (SRO) units required to have food preparation facilities that occupants can access?

No. Single Room Occupancy Housing (SRO) is a unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. The typical Housing Quality Standards (HQS) requirements for kitchen access at 24 CFR 982.401(c) do not apply for SRO Units. Cross References: kitchen, food preparation, single room occupancy References: 24 CFR 982.4; 24 CFR 982.605(a)

<https://www.hudexchange.info/faqs/3954/are-single-room-occupancy-sro-units-required-to-have-food-preparation/>

Q: Are Public Housing Agencies (PHAs) required to remove college students from the household when they are living on campus while attending school?

HUD instructs PHAs to define what they shall consider as “temporarily absent” in their Administrative Plan policies. In general, since college students return during school breaks, the PHA would consider the students to still be family members. Cross References: temporarily absent, full time student, away References: 24 CFR 982.54(d)(4) and (d)(10); 24 CFR 982.312(e)

<https://www.hudexchange.info/faqs/3953/are-public-housing-agencies-phas-required-to-remove-college-students/>

Q: Can an initial Public Housing Agency (PHA) post-date a portability request in order to give a family more time to search for a unit?

No. Section 2 of Form HUD-52646 clearly prompts PHAs to insert the actual date the voucher is issued to the family. Cross References: port, voucher, vacating References: Form HUD-52646

<https://www.hudexchange.info/faqs/3952/can-an-initial-public-housing-agency-pha-post-date-a-porta>

bility-request/

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: When submitting an initial portability packet, should the initial Public Housing Agency (PHA) send a HUD-50058 for a “9 = Annual Reexamination Search” transaction if this is the most current 50058 for the family?

Yes. When submitting the initial portability packet, the initial PHA must send the most recent HUD-50058 to the receiving PHA. Cross References: port documents References: Notice PIH 2016-09 (Section 9.h)

<https://www.hudexchange.info/faqs/3951/when-submitting-an-initial-portability-packet-should-the-initial-public-ho/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: What voucher issuance date is used by the receiving Public Housing Agency (PHA) when completing the Form HUD-50058 for an action code 10? The initial PHA's voucher issuance date, or the receiving PHA's?

The receiving PHA should use its own voucher issuance date on the HUD-50058. The intent of action code 10 is to track anytime the PHA issues a voucher to a family to search for housing. Cross References: port; form 50058, code 10, effective date References: Form HUD-50058 Instruction Booklet (Section 2)

<https://www.hudexchange.info/faqs/3950/what-voucher-issuance-date-is-used-by-the-receiving-public-housing-agency/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Can a Public Housing Agency (PHA) reject incoming ports because of an administrative fee decrease?

No. The regulations generally state that receiving PHAs cannot refuse to assist incoming port families or direct them to a neighboring PHA for assistance. Furthermore, the regulatory guidance at Notice PIH 2016-09 does not list this as a valid reason for denying a family's request to move. Cross References: deny port; limit port; administrative fee References: 24 CFR 982.355(b); Notice PIH 2016-09 (Section 6-7)

<https://www.hudexchange.info/faqs/3949/can-a-public-housing-agency-reject-incoming-ports-because-of-fee-decrease/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: If a receiving Public Housing Agency (PHA) chooses to administer a voucher, can the initial PHA deny portability due to insufficient funding?

Yes, but only in certain circumstances, but it may only do so if the move is to a higher cost area, the receiving PHA will not absorb the voucher, and if the PHA would not be able to avoid terminating current participants during that calendar year in order to remain within its budgetary allocation. A higher cost area in this context is defined as an area where a higher subsidy will be paid because of higher payment standard amounts or more generous subsidy standards. If a PHA has insufficient funds, the regulations also state that HUD may provide additional funding to the initial PHA for funds transferred to a receiving PHA for portability. Cross References: port, limit, deny portability References: 24 CFR 982.355(c)(5) and (f)(2); Notice PIH 2016-09 (Section 9)

<https://www.hudexchange.info/faqs/3948/if-a-receiving-public-housing-agency-pha-chooses-to-administer-a-voucher/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Can an applicant family living be required to live in the Public Housing Agency (PHA)'s jurisdiction for a year before they can port-out?

Yes, but only in certain circumstances. PHAs have discretionary authority to impose a 12-month restriction on portability; however, such restrictions can only be applied to nonresident applicants who: Did not have legal residence within the PHA's jurisdiction at the time of application; and, Are not protected under the Violence Against Women Act (VAWA) If utilized, such restrictions must be specified in the PHA's Administrative Plan. Cross References: port, move, jurisdiction, legal resident, domicile References: 24 CFR 982.353(b) and (c); Notice PIH 2016-09 (Section 6.b.4)

<https://www.hudexchange.info/faqs/3947/can-an-applicant-family-living-be-required-to-live-in-the-pub>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: If a receiving Public Housing Agency (PHA) fails to return Form HUD-52665 on time, is the initial PHA required to pay?

No. The initial PHA may refuse the late billing, which would require the receiving PHA to absorb the voucher. The initial PHA should notify the receiving PHA in writing that they will not accept a late billing and return Form HUD-52665. Alternatively, the initial PHA may exercise discretion and accept the billing. Cross References: port billing, late billing, voucher expired References: Notice PIH 2016-09 (Section 14.c)

<https://www.hudexchange.info/faqs/3946/if-a-receiving-public-housing-agency-pha-fails-to-return-for-m-hud-52665/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: If a receiving Public Housing Agency (PHA) has failed to notify the initial PHA that a change in billing has occurred, is the initial PHA required to submit payment?

If the receiving PHA fails to send Form HUD-52665 and Form HUD-50058 within 10 business days following the effective date of the Housing Assistance Payments (HAP) change, the initial PHA is not responsible for paying any increase in the monthly billing amount that occurred prior to the notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled. Cross References: port billing, deadlines References: Notice PIH 2016-09 (Section 14.e)

<https://www.hudexchange.info/faqs/3945/if-a-receiving-public-housing-agency-pha-has-failed-to-notify-the-initial/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Are Public Housing Agencies (PHAs) required to complete an Internal Revenue Service

(IRS) Form W-9 for portability billings?

Notice PIH 2016-09 contains a list of required forms that the initial PHA must send to the receiving PHA, and it does not include IRS Form W-9. Nevertheless, individual PHAs may elect to collect this form, since a tax identification number may be required for the initial PHA to set-up a vendor account for the receiving PHA in their system of record. Cross References: port billing, tax form, W-9
References: Notice PIH 2016-09 (Section 9.h)

<https://www.hudexchange.info/faqs/3944/are-public-housing-agencies-phas-required-to-complete-an-internal-revenue/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: When calculating administrative fee billings for portability, would a Public Housing Agency (PHA) calculate 80% of the Column B posted rate for the initial or the receiving PHA?

Under portability, the initial PHA reimburses the receiving PHA for the lesser of 80% of the initial PHA's ongoing administrative fee or 100% of the receiving PHA's ongoing administrative fee, multiplied by HUD's national proration factor (if applicable). If both PHAs agree, they have discretion to negotiate a different amount of reimbursement. Cross References: billing, Administrative Fee
References: 24 CFR 982.355(e)(3); Notice PIH 2016-09 (Section 12)

<https://www.hudexchange.info/faqs/3942/when-calculating-administrative-fee-billings-for-portability-would/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: What steps should an initial Public Housing Agency (PHA) take when it believes the receiving PHA is not calculating Housing Assistance Payments (HAP) correctly?

The receiving PHA must administer the voucher in accordance with its policies, so it is important to note that billings may not always reflect amounts anticipated by the initial PHA. In many cases, billing disputes result from miscommunication between agencies. HUD encourages PHAs to work cooperatively to resolve these issues, so that any potential hardship on participants or unnecessary administrative burden is avoided. Cross References: responsibility, oversight, administer
References: 24 CFR 982.355(c)(10); Notice PIH 2016-09 (Section 14)

<https://www.hudexchange.info/faqs/3941/what-steps-should-an-initial-public-housing-agency-pha-take-when-it/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: If an initial Public Housing Agency (PHA) has a policy that restricts lease effective dates to the first of the month, can they decline to pay a receiving PHA's billing for prorated Housing Assistance Payments (HAP)?

No. Allowable HAP expenses for billing purposes in this context are determined by the receiving PHA's policies. Therefore, the amount of HAP paid for a portable family must be determined in the same manner as for other families in the receiving PHA's program. If the receiving PHA issues prorated HAP for a mid-month move, the initial PHA must promptly reimburse the receiving PHA. Cross References: billing, partial month References: 24 CFR 982.355(c)(10) and (e)(2)

<https://www.hudexchange.info/faqs/3940/if-an-initial-public-housing-agency-pha-has-a-policy-that-restricts-lease/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Are initial Public Housing Agencies (PHAs) required to pay a portability billing if the effective date of the receiving PHA's Housing Assistance Payments (HAP) contract is earlier than (but in the same month as) the date when the participant vacated the unit at the initial PHA?

Yes. If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered a duplicative housing subsidy. The initial PHA must pay HAP to the receiving PHA as of the effective date of the HAP contract. Cross References: port, billing, partial month, duplicate subsidy References: 24 CFR 982.311(d)(1)

<https://www.hudexchange.info/faqs/3939/are-initial-public-housing-agencies-phas-required-to-pay-a-portability/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Would a receiving Public Housing Agency (PHA) have to return Housing Assistance Payment (HAP) and administrative fees to an initial PHA if they received billing payments for a unit that was later found to be vacant?

Yes. HAP and administrative fees for portability billings are only payable for each unit under HAP contract as of the first day of each month. As is the case for any other HAP contract not assisted under portability, the receiving PHA may not remit housing assistance payments to owners for any month after the family has vacated the unit. If the HAP contract is terminated retroactively at no fault of the receiving PHA, the receiving PHA is still responsible for submitting a timely billing adjustment to the initial PHA. In all cases where the receiving PHA receives payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including HAP and administrative fees) to the initial PHA. Cross References: port, billing, administrative fee, vacated References: 24 CFR 982.355(e)(3); 24 CFR 982.311(d)(1); Notice PIH 2016-09 (Section 16.c)

<https://www.hudexchange.info/faqs/3938/would-a-receiving-public-housing-agency-pha-have-to-return-housing/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: If a receiving Public Housing Agency (PHA) leases up a participant mid-month, can they bill an administrative fee to the initial PHA for that month?

No. Per Notice PIH 2016-09, if “the effective date of the Housing Assistance Payment (HAP) is on a date other than the first of the month, the receiving PHA cannot bill for administrative fees for that month. This is because administrative fees are earned for each program unit under HAP contract on the first day of the month.” This policy is also reiterated at 24 CFR 982.355(e)(3). Cross References: port, billing, administrative fee, partial month References: Notice PIH 2016-09 (Section 14.d); 24 CFR 982.355(e)(3)

<https://www.hudexchange.info/faqs/3937/if-a-receiving-public-housing-agency-pha-leases-up-a-participant-mid-month/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Are Moving to Work (MTW) agencies required to absorb families who port into their jurisdiction?

No. Public Housing Agencies (PHAs), including MTW agencies, are not required to absorb families who port into their jurisdiction. Cross References: port, absorb, MTW, billing References: 24 CFR

982.355(c)(3); Notice PIH 2016-09 (Section 2 and Section 19)

<https://www.hudexchange.info/faqs/3936/are-moving-to-work-mtw-agencies-required-to-absorb-families-who-port-in/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: What action codes should be used on line 2a of the Form HUD-50058 if a family returns to the jurisdiction of the initial Public Housing Agency (PHA) after having leased within the jurisdiction of a receiving PHA?

In order to correctly record that the voucher is no longer being administered by the receiving PHA, the receiving PHA should use action code 5 = Portability Move-Out, and the initial PHA should use action code 4 = Portability Move-In. Cross References: 50058, code, port move out, port move in References: Form HUD 50058 Instruction Booklet (Section 2: Action); Notice PIH 2016-09 (Section 18)

<https://www.hudexchange.info/faqs/3935/what-action-codes-should-be-used-on-line-2a-of-the-form-hud-50058/>

TAGS: HCV : Moves and Portability : Limitations on Family Moves HCV : Moves and Portability : Portability / /

Q: Who should receive the \$480 dependent deduction when parents share equal custody of a child?

If the parents in a shared custody situation do not agree on who gets to claim the child or children as members of the household (and therefore get the higher occupancy standard and child deduction), that determination is based on Public Housing Agency (PHA) policy. If there are no provisions in the PHA's Administrative Plan for this situation then the PHA may review other documents, such as the court-approved custody agreement or income tax returns. The Inventory Management/Public Housing Information Center (IMS/PIC) system does not allow for a dependent to be reported in more than one household; therefore, nothing is reported for the parent that does not get to claim the child or children as a dependent. Cross References: dependent, shared custody References: 24 CFR 5.403; 24 CFR 982.54(d)(4)

<https://www.hudexchange.info/faqs/3934/who-should-receive-the-480-dependent-deduction-when-parents-share-equal/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Calculation of Income HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions //

Q: For purposes of the Housing Choice Voucher (HCV) program, should companion animals be considered service animals or assistive animals?

The HCV program does not make a distinction between service or assistive animals and companion animals. To determine whether expenses related to an animal are deductible, the nature of the service provided by the animal will need to be considered, with reference to the regulatory definitions of medical and disability allowances in the Code of Federal Regulations (CFR) and Internal Revenue Service (IRS) Publication 502, which HUD encourages Public Housing Agencies (PHAs) to use as a standard for determining allowable medical expenses. Cross References: medical deduction, medical expense; disability expense, service animal, assistance animal, companion animal, therapy animal References: 24 CFR 5.603(b); 24 CFR 5.611(a)(3); IRS Publication 502

<https://www.hudexchange.info/faqs/3933/for-purposes-of-the-housing-choice-voucher-hcv-program-should-companion/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Calculation of Income HCV : Calculating Income, Rent, & Housing Assistance Payments : Income Inclusions and Exclusions HCV : Calculating Income, Rent, & Housing Assistance Payments : Mandatory Deductions //

Q: What is the impact of the maximum initial rent burden when the family has zero income?

Families with zero income must generally lease a unit where the gross rent is at or below the applicable payment standard. The 40% rent burden test is not applicable. Cross References: family share, family rent, percentage, maximum rent, initial rent burden, zero income References: 24 CFR 982.305(a)(5); 24 CFR 982.508

<https://www.hudexchange.info/faqs/3932/what-is-the-impact-of-the-maximum-initial-rent-burden-when-the-family-has/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Initial Calculations at Voucher Issuance //

Q: Can Public Housing Agencies (PHAs) include excluded income sources (such as foster care assistance) when calculating the initial rent burden for a family?

No. Excluded income is not counted when determining affordability. When a unit's gross rent exceeds the applicable payment standard, the family share may not exceed 40 percent of the family's monthly adjusted income. Adjusted income, per regulation, is defined as annual income minus mandatory deductions. Since 24 CFR 5.609(c)(2) states that excluded sources of income are not considered annual income, they would not be considered when determining adjusted income nor the maximum initial rent burden. Cross References: maximum rent, percentage, initial rent burden, family share, excluded income References: 24 CFR 5.609(c)(2); 24 CFR 5.611; 24 CFR 982.305(a)(5)

<https://www.hudexchange.info/faqs/3931/can-public-housing-agencies-include-excluded-income-sources/>

TAGS: HCV : Calculating Income, Rent, & Housing Assistance Payments : Initial Calculations at Voucher Issuance / /

Q: Can an owner of a Low-Income Housing Tax Credit (LIHTC) development charge Housing Choice Voucher (HCV) tenants a rent that exceeds the rent charged in other LIHTC units for families who are not participants in the voucher program?

Under the LIHTC program, if the rent requested by the owner exceeds the rent charged in other LIHTC units for families who are not participants in the voucher program, the PHA must perform a rent reasonableness study. The rent must be the lower of: The reasonable rent (as determined by the rent comparability study) The payment standard established by the PHA for a unit of the size involved Cross References: LIHTC, rent reasonableness, tax credit References: 24 CFR 982.507; HCV Guidebook Chapter 4, "Rent Reasonableness" (Section 2.6)

<https://www.hudexchange.info/faqs/3929/can-an-owner-of-a-low-income-housing-tax-credit-lihtc-development-charge/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: Can owners request a special rent increase after completing major capital improvements at a development?

The Public Housing Agency (PHA) must redetermine the reasonable rent before any increase in the rent to owner. The owner may offer a new lease with the new rent any time after the initial lease term or may increase the rent as permitted by the terms of the lease and the Housing Assistance Payments (HAP) Contract, at which time the PHA will determine whether the requested rent is reasonable per its regular process. The process the PHA uses to determine rent reasonableness may take into account the elements of the owner's capital improvements if that is typical of the PHA's

process for all units, but the fact that capital improvement have been made in and of itself does not justify a rent increase or any deviation from regular procedures and regulations. Cross References: renovations, capital improvements, comparable References: 24 CFR 982.507(a)(2); Form HUD 52641

<https://www.hudexchange.info/faqs/3928/can-owners-request-a-special-rent-increase-after-completing-major-capital/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: It has been found that rent amounts have decreased in the area. Should the Public Housing Agency (PHA) reduce the rent to owner for units under existing Housing Assistance Payments (HAP) Contracts?

By the terms of the HAP contract, the PHA may redetermine the reasonable rent at any time. However, the PHA is not required to redetermine rent reasonableness unless: It is entertaining an owner's request for a rent increase There is a 10% decrease in the published Fair Market Rent (FMR) for the unit size in question, which took effect at least 60 days before the contract anniversary Otherwise directed by HUD During the HAP Contract term, the rent to owner may at no time exceed the reasonable rent as most recently determined or redetermined by the PHA. Therefore, if the PHA decides to redetermine rent reasonableness during the HAP contract term and the new reasonable rent is lower than the rent to owner, the rent must be reduced immediately. Cross References: rent decrease, change, compare, comparable References: 24 CFR 982.507(a)(2); Form HUD 52641

<https://www.hudexchange.info/faqs/3927/it-has-been-found-that-rent-amounts-have-decreased-in-the-area/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: If the rent for an unassisted tenant at a property is below market rate, does that unit have to be used for a rent reasonableness determination for another unit at the property that may house a Housing Choice Voucher (HCV) applicant?

If the Public Housing Agency (PHA) is aware that the owner is renting comparable unassisted units below the market rate and/or below the asking rent for the unit on a Request for Tenancy Approval (RTA), the PHA should consider them during its rent reasonableness analysis. On the other hand, if these units are subject to rent control or are undergoing a housing conversion action (e.g., owner opt-outs of prior contracts), they may be counted as "assisted" units and not be used for comparability. Otherwise, comparable units that the owner is voluntarily charging below market count as unassisted and the PHA should include them in its rent reasonableness determination. Cross

References: comparable rent, old lease References: Notice PIH 2020-19 (Sections IV, V); HCV Guidebook Chapter 4, "Rent Reasonableness" (Section 2.4)

<https://www.hudexchange.info/faqs/3926/if-the-rent-for-an-unassisted-tenant-at-a-property-is-below-market-rate/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: Can Public Housing Agencies (PHAs) determine rent reasonableness for PHA-owned units that are rented to Housing Choice Voucher (HCV) participants?

No. When PHA-owned units are rented to HCV participants, an independent HUD-approved entity must perform the rent reasonableness analysis, inspection, and rent negotiation. Cross References: PHA-owned unit, outside agency, independent entity References: 24 CFR 982.352(b)(1)(iv)

<https://www.hudexchange.info/faqs/3925/can-public-housing-agencies-phas-determine-rent-reasonableness/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: How should Public Housing Agencies (PHAs) determine rent reasonableness when the lease starts with an owner promotion, such as two-months' free rent?

The easiest way for a PHA to handle this situation is to have the owner prorate the two free months of rent over a 12-month period, since a specified contract rent amount must be compared to unassisted units when the PHA conducts its rent reasonableness analysis. If the two free months' rent are not accounted for during the rent reasonableness analysis, the PHA could possibly not approve the requested rent amount even though the average monthly rent is reasonable. This would lower the monthly contract rent, causing no overpayment. For example, if the two free months of rent amount to \$1200, the owner would recalculate the monthly contract rent over a 12-month period by factoring in the \$600 in free rent per month for the initial two months. Thus, the monthly contract rent would become \$500 rather than \$600. Cross References: free month rent, rent promotions, owner promotions References: Notice PIH 2020-19 (Section V.A); 24 CFR 982.308

<https://www.hudexchange.info/faqs/3924/how-should-public-housing-agencies-phas-determine-rent-reasonableness/>

TAGS: HCV : Rent Reasonableness : Program Requirements / /

Q: If a Public Housing Agency (PHA)'s payment standard schedule changes between the processing date and effective date of an annual reexamination, which schedule should be used?

The payment standard schedule in effect as of the effective date of the reexamination should be used, regardless of the processing date. Because reexaminations are processed in advance of their effective dates, PHAs are encouraged to adopt a policy in their Administrative Plan that allows for a delay in the effective date of their new payment standard schedule. Updated fair market rents (FMRs) are released in September and are effective October 1st. Since regulations permit an implementation delay of up to three months, PHAs may make their revised payment standard schedule effective January 1st to avoid reprocessing reexaminations that were completed prior to October 1st. Cross References: new FMR, new payment standards, revised payment standards, reexamination References: 24 CFR 982.503(b)(1)(i); Notice PIH 2018-1 (Section 4); HCV Guidebook Chapter 3, "Payment Standards" (Section 4)

<https://www.hudexchange.info/faqs/3923/if-a-public-housing-agency-payment-standard-schedule-changes/>

TAGS: HCV : Payment Standards : Changes in Payment Standard Amounts / /

Q: Are owners allowed to request a rent increase during the initial lease term so long as the tenant and Public Housing Agency (PHA) are provided with 60-day notice, and the proposed effective date is after the initial lease term?

Yes. The new rent would still need to pass a rent reasonableness determination and ultimately be approved by the PHA. The regulation at 24 CFR 982.309(a)(3) does not restrict owners from requesting a rent increase during the initial lease term, it only prohibits owners from actually increasing the contract rent during this period. Cross References: rent increase, lease terms, anniversary date, 60-day notice References: 24 CFR 982.308(g)(4); 24 CFR 982.309(a)(3); 24 CFR 982.507(a)(2)(i)

<https://www.hudexchange.info/faqs/3922/are-owners-allowed-to-request-a-rent-increase-during-the-initial-lease-term/>

TAGS: HCV : Housing Search and Leasing : Changes in Lease or Rent / /

Q: Are voucher holders allowed to add a co-signer to their lease?

The regulations do not prohibit participants from having a co-signer, if needed. Under certain circumstances, a landlord may require a co-signer due to factors such as the applicant's credit or rental history. So long as the co-signer requirement complies with State, local, and Fair Housing law, it is permissible. Cross References: co-signer, fair housing, lease References: 24 CFR 982.308

<https://www.hudexchange.info/faqs/3921/are-voucher-holders-allowed-to-add-a-co-signer-to-their-lease/>

TAGS: HCV : Housing Search and Leasing : Lease and Tenancy / /

Q: Can Public Housing Agencies (PHAs) require all landlord leases to contain terms for a one-year lease renewal, and prohibit month-to-month renewals after an initial lease term?

No. PHAs may not require landlords to offer a one-year lease renewal upon expiration of the initial lease term, nor can PHAs unilaterally terminate the Housing Assistance Payments (HAP) contract if the owner elects to enter into a month-to-month lease upon the expiration of the initial lease term. Cross References: lease renewal, lease term, one year, month to month References: 24 CFR 982.309; HUD-52641 (Part B, Section 4)

<https://www.hudexchange.info/faqs/3920/can-public-housing-agencies-phas-require-all-landlord-leases-to-contain/>

TAGS: HCV : Housing Search and Leasing : Lease and Tenancy / /

Q: Can an initial lease and Housing Assistance Payments (HAP) contract term be less than one year?

Public Housing Agencies (PHAs) may approve an initial lease term that is less than one year if this would improve housing opportunities for the tenant and is the prevailing local market practice. Otherwise, the PHA will not be able to seek a waiver from this requirement since it is statutory. Cross References: initial term, waive References: 24 CFR 982.309(a)(2)

<https://www.hudexchange.info/faqs/3919/can-an-initial-lease-and-housing-assistance-payments-hap-contract-term/>

TAGS: HCV : Housing Search and Leasing : Lease and Tenancy / /

Q: Can a landlord require their tenants to have renter's insurance?

Although there are no Federal regulations that prohibit this, it's possible that there are local laws that prohibit such a requirement. If a landlord can lawfully require tenants to have renter's insurance, they must impose the requirement equally upon unassisted and assisted tenants. Cross References: renter's insurance; lease requirements, lease terms References: 24 CFR 982.308(b)(2) and(c)

<https://www.hudexchange.info/faqs/3918/can-a-landlord-require-their-tenants-to-have-renters-insurance/>

TAGS: HCV : Housing Search and Leasing : Lease and Tenancy / /

Q: Can owners charge applicants for lease application fees?

Yes, so long as the owner is also charging unassisted tenants for application fees. The fees must be reasonable and consistent with local and state laws. Cross References: lease terms, application fee References: 24 CFR 982.510(c)

<https://www.hudexchange.info/faqs/3917/can-owners-charge-applicants-for-lease-application-fees/>

TAGS: HCV : Housing Search and Leasing : PHA Approval of Tenancy / /

Q: Can a Public Housing Agency (PHA) approve tenancy if the unit will be occupied by the property owner?

No. Units are ineligible whenever they will be occupied by the owner or any other person with an interest in the unit. Cross References: owner occupied References: 24 CFR 982.352(a)(6)

<https://www.hudexchange.info/faqs/3916/can-a-public-housing-agency-pha-approve-tenancy-if-the-unit/>

TAGS: HCV : Housing Search and Leasing : PHA Approval of Tenancy / /

Q: Can a unit in an assisted living facility be assisted under the Housing Choice Voucher (HCV) program?

Yes. Notice PIH 2000-41 states, and subsequent Notice PIH 2012-01 implies, that program applicants or participants may use housing choice vouchers in assisted living facilities in accordance with program rules. However, the cost of meals or supportive services may not be included in the rent to owner and the family must not require continual medical or nursing care. A waiver may be requested on a case-by-case basis if the family share will exceed the initial rent burden. Cross References: assisted living, meals References: Notice PIH 2000-41; Notice PIH 2012-40; 24 CFR 983.354(a); 24 CFR 982.352(a)(3)

<https://www.hudexchange.info/faqs/3915/can-a-unit-in-an-assisted-living-facility-be-assisted-under-the/>

TAGS: HCV : Housing Search and Leasing : PHA Approval of Tenancy / /

Q: Can a participant family rescind their request to move if they decide to remain in their current unit after receiving a voucher?

Yes, so long as the unit is in good standing (e.g., the Housing Assistance Payments (HAP) contract was not terminated due to an abatement or other owner non-compliance) and the tenant has not vacated. In this scenario, the family is under no obligation to locate another unit since they prompted the request to move. However, there should be written documentation in the file to verify the participant family's decision to rescind their move request. Cross References: reinstate, reinstatement References: 24 CFR 982.451

<https://www.hudexchange.info/faqs/3914/can-a-participant-family-rescind-their-request-to-move-if-they-decide/>

TAGS: HCV : Housing Search and Leasing : Voucher Issuance / /

Q: What issuance date should Public Housing Agencies (PHAs) use on the voucher (Form HUD-52646)?

The voucher issuance date signals when the family is formally authorized to search for assisted housing. Therefore, the date should be the actual date when the voucher is issued to the family. Cross References: term of voucher, search time References: Form HUD-52646

<https://www.hudexchange.info/faqs/3913/what-issuance-date-should-public-housing-agencies-phas-use-on-the-voucher/>

TAGS: HCV : Housing Search and Leasing : Voucher Issuance / /

Q: How does HUD define denial of assistance?

Denial of assistance is defined at 24 CFR 982.552 and may include any or all of the following: denying listing the family on the Public Housing Agency (PHA) waiting list, denying or withdrawing a voucher, refusing to enter into a Housing Assistance Payments (HAP) contract or approve a lease, terminating housing assistance payments under an outstanding HAP contract, and refusing to process or provide assistance under portability procedures. Cross References: deny assistance, termination References: 24 CFR 982.552(c)

<https://www.hudexchange.info/faqs/3912/how-does-hud-define-denial-of-assistance/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening HCV : Eligibility Determination and Denial of Assistance : Citizenship Status HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance / /

Q: Can a Public Housing Agency (PHA) terminate or deny assistance because of an outstanding debt if that debt has been discharged under a bankruptcy proceeding, and/or if the Statute of Limitations of the State for collecting a debt has run out?

No. If a debt has been extinguished by force of law, then a PHA could not deny admission or terminate assistance solely on the basis of the outstanding debt. Assuming that a family's debt to the PHA has been properly discharged in a bankruptcy proceeding (and as a practical matter the PHA may want to see a copy of the discharge order), the PHA cannot deny or terminate assistance solely due to the content in 24 CFR 982.552(c)(1)(v). However, a PHA is not prohibited from denying assistance to an applicant if there are other grounds to do so (besides the family's debt) under the regulations. Regarding the Statute of Limitations, whether a debt still exists or is extinguished after the Statute of Limitations for collection of the debt runs out is a matter to be determined by the PHA in consultation with the appropriate State official, if necessary. If the debt is considered extinguished by force of law, then the same discussion above applies. Cross References: Debts Owed, adverse termination References: 24 CFR 982.552(c)(1); Form HUD-52675

<https://www.hudexchange.info/faqs/3911/can-a-public-housing-agency-pha-terminate-or-deny-assistance-because-of-a/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening HCV : Eligibility Determination and Denial of Assistance : Citizenship Status HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance / /

Q: Must an Indian Housing Authority allow non-tribal members admission into its Housing Choice Voucher (HCV) Program?

No. For units located on tribal land, Tribally Designated Housing Entities (TDHEs) may limit Indian Housing Block Grant (IHBG) rental assistance to only serve tribal members. As stated in Notice PIH 2010-32 (p.4), "On lands where an Indian tribe exercises sovereignty, the tribe can limit housing to Indian families or tribal members regardless of the funds used to construct or otherwise assist the housing." Cross References: Native American, tribal References: Notice PIH 2010-32 (Section 7)

<https://www.hudexchange.info/faqs/3910/must-indian-housing-authorities-allow-non-tribe-members-admission-into-its/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening HCV : Eligibility Determination and Denial of Assistance : Citizenship Status HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance / /

Q: Are persons with felony convictions ineligible from participation in the program?

No. Certain types of criminal activity must be considered per regulation. Other criminal activities may be considered if as described in Public Housing Agency (PHA) Administrative Plan policies and subject to HUD's guidance in Notice PIH 2015-19. The regulations require the PHA to consider denial of assistance for those: Persons evicted from federally assisted housing for drug-related criminal activity, for a period of three years from the eviction, unless certain conditions are met (successful completion of a supervised drug rehabilitation program approved by the PHA) Persons convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing Persons subject to a lifetime registration requirement under a state sex offender registration program The regulations state that PHAs may set their own policies for other types of criminal behavior, such as drug-related or violent behavior. After admission to the program, similar prohibited behavior is grounds for termination of assistance due to violation of the Family Obligations. Cross References: felony, criminal, sex offender, methamphetamine References: 24 CFR 5.100; 24 CFR 982.553; Notice PIH 2012-28; Notice PIH 2015-19

<https://www.hudexchange.info/faqs/3909/are-persons-with-felony-convictions-ineligible-from-participation-in/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening HCV : Eligibility Determination and Denial of Assistance : Citizenship Status HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance / /

Q: Are Public Housing Agencies (PHAs) required to provide a Housing Choice Voucher (HCV) applicant or participant with a copy of their criminal record, or will a summary of the record suffice?

A copy of the criminal record must be provided to the head of household and the subject of the record, if different from the head of household, when the PHA proposes to deny admission or terminate assistance. Doing so will afford the applicant or participant family a full opportunity to dispute the accuracy and relevance of the record. Providing a summary of the record is insufficient because critical information may be omitted that would adversely affect the family's ability to formulate a dispute. Cross References: criminal record References: 24 CFR 982.553(d)

<https://www.hudexchange.info/faqs/3908/are-public-housing-agencies-phas-required-to-provide-a-housing-choice/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Background Screening HCV : Eligibility Determination and Denial of Assistance : Citizenship Status HCV : Eligibility Determination and Denial of Assistance : Denial of Assistance / /

Q: Is an applicant who is a full-time student enrolled in an institution of higher education, is under 24 years of age, and has a child eligible for the Housing Choice Voucher (HCV) program? The parents are not eligible to receive assistance on the basis of income.

Yes, the applicant is eligible. Because the student has a child, and the student is the legal guardian of the child, the student is eligible for assistance. Cross References: student References: 24 CFR 5.612(e)

<https://www.hudexchange.info/faqs/3907/is-an-applicant-who-is-a-full-time-student-enrolled-in-an-institution/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements HCV : Eligibility Determination and Denial of Assistance : Students / /

Q: Are disabled students excluded from HUD restrictions on assistance to students enrolled in an institution of higher education? If a disabled tenant was enrolled in college at the time

of their eligibility determination, would they be excluded from this restriction?

Individuals who meet the program definition of a person with a disability are not subject to the restrictions on assistance to students; therefore, student status has no effect on the eligibility of applicants and participants with disabilities. Cross References: student, disability References: 24 CFR 5.612(f); 24 CFR 8.3; 24 CFR 100.201

<https://www.hudexchange.info/faqs/3906/are-disabled-students-excluded-from-hud-restrictions-on-assistance/>

TAGS: HCV : Eligibility Determination and Denial of Assistance : Family Eligibility Requirements HCV : Eligibility Determination and Denial of Assistance : Students / /

Q: Does HUD have a sample Administrative Plan that Public Housing Agencies (PHAs) can use?

HUD does not provide a sample Administrative Plan. Cross References: Administrative Plan References: 24 CFR 982.54(a); 24 CFR 982.54(b)

<https://www.hudexchange.info/faqs/4041/does-hud-have-a-sample-administrative-plan-that-public-ho-using-agencies/>

TAGS: HCV : Uncategorized : General Administration / /

Q: If a family enters a contract of sale before the Housing Quality Standards (HQS) inspection and independent home inspection, is the unit eligible for the Homeownership Program?

Yes. The regulations only state that the Public Housing Agency (PHA) cannot start monthly homeownership assistance payments, or provide a down payment assistance grant for the family, until the unit has passed HQS inspection and the PHA has reviewed an inspection report from independent inspector who was selected and paid for by the family. The contract of sale itself must provide that the purchaser is not obligated to purchase the unit unless the independent inspection is satisfactory to the purchaser. Cross References: homeownership HQS, inspection References: 24 CFR 982.631(a), (b)(4), and (2)(iii)

<https://www.hudexchange.info/faqs/3962/if-a-family-enters-a-contract-of-sale-before-the-housing-quality-standards/>

Q: Can an owner of a Low-Income Housing Tax Credit (LIHTC) property increase the rent for a family already residing in a unit that has been newly admitted to the Housing Choice Voucher (HCV) program?

Yes. If the requested rent passes the Public Housing Agency (PHA)'s rent reasonableness test and does not exceed the 40% rent burden limit for the family which is applicable at the beginning of the Housing Assistance Payments (HAP) Contract, the owner may request a higher rent than the family was previously paying. Additionally, rent reasonableness tests are not required if the rent does not exceed non-assisted rents in the project assisted with LIHTC. Be aware that the property's agreements with other regulatory agencies may impose conditions on the lease which specify the permitted timing of rent increases. Cross References: rent burden, LIHTC References: 24 CFR 982.507; 24 CFR 982.508; HCV Guidebook Chapter 4, "Rent Reasonableness" (Section 2.6) and Chapter 5, "Calculating Rent & Housing Assistance Payments (HAP)" (Section 2.4)

<https://www.hudexchange.info/faqs/3930/can-an-owner-of-a-low-income-housing-tax-credit-lihtc-property-increase/>

Q:

Yes. If the requested rent passes the Public Housing Agency (PHA)'s rent reasonableness test and does not exceed the 40% rent burden limit for the family which is applicable at the beginning of the Housing Assistance Payments (HAP) Contract, the owner may request a higher rent than the family was previously paying. Additionally, rent ...

<https://www.hudexchange.info/faqs/3930/can-an-owner-of-a-low-income-housing-tax-credit-lihtc-property-increase/>